

TITLE 19

COUNCIL

Chapter

1. General Provisions
2. Committees
3. Salaries and Expenses
4. Officers and Meetings
5. Governmental Records
6. Subpoena and Investigations

7. Drug testing for elected officials

CHAPTER 1

GENERAL PROVISIONS

Section

1. Voting upon appointment to public office of persons related to Members of Council
2. Removal of Members of Council
3. Filling of vacancies
4. Repealed
5. Publication of Council minutes

§ 1. Voting upon appointment to public office of persons related to Members of Council

No Member of the Council shall vote for the appointment of any person to any office in the Nation who is related to such Member by affinity or consanguinity within the first degree.

History

Source. LA 6–85, eff. July 13, 1985.

Library References

Indians O217.
Westlaw Topic No. 209.

§ 2. Removal of Members of Council

Any Member of the Council may be removed by a majority vote of the other Members of the Council for willful neglect of duty, habitual drunkenness or conviction of any crime involving moral turpitude while in office.

History

Source. LA 6–85, eff. July 13, 1985.

Library References

§ 3. Filling of vacancies

A. When a vacancy occurs in any office of elected councilors, the Tribal Council shall appoint, by a majority vote of the remaining councilors, a person to fill the vacancy until the next General Election. Provided that if there are twenty-four (24) months or more remaining of the term of office that has been vacated then the vacancy shall be filled by Special Election by the electorate of that District.

B. A vacancy occurs upon the effective date of the resignation of the Councilor, the death of a Councilor, the disability of the Councilor or the judicial determination of the inability to serve as Councilor.

C. If more than twenty-four (24) months remain of the Councilor's term whose office is vacated, then a Special Election shall be called to elect an individual to fill the remaining term. This election shall be held as soon as practicable after the vacancy occurs. The election shall be conducted in accordance with the Cherokee Nation Election Code, 26 CNCA.

D. The person appointed by the Tribal Council to fill the vacancy shall be a registered voter and tribal citizen in and of the District for which the deceased or disabled Councilor served.

E. To be eligible for appointment to fill a vacancy in an elected Councilor's office, a person must meet the same qualifications required for filing a declaration for candidacy for that office, as prescribed by law.

F. Applications by person(s) applying to fill the vacancy shall not be in any particular form, however, the application must include the person's name(s), address (both physical and mailing), phone number(s), and length of residence in the vacant District.

G. All applicants shall appear before the Rules Committee for interviews. The Chairperson of the Rules Committee shall notify all applicants of the specific date, time and place of said interview by regular mail. Further, public notice of said interviews shall be posted at least ten (10) days in advance. This notice shall be posted outside Cherokee Nation Tribal Council Chambers. Every effort should be made to publish the information concerning the procedures on how the vacancy will be filled throughout the appropriate District.

H. Cherokee Nation shall cause to be published the vacancy of office and said publication shall specify the District in which the vacancy exists, and a deadline by which the Cherokee Council shall receive applications for the position. This information shall be published in at least one (1) newspaper, which is circulated in the District in which the vacancy exists.

I. Nothing herein shall prevent Councilors from obtaining and submitting resumes of qualified candidates for consideration.

J. The Rules Committee shall forward one or more names to the next regular Council meeting for consideration. If more than one name is submitted to full Council, the Council shall vote for the candidate of their choice. If no candidate receives a majority of votes of those Councilpersons present and voting, then the

last placed candidate shall be excluded and voting shall

GENERAL PROVISIONS

19 CNCA §5

commence. This process shall continue until one (1) candidate receives a majority of votes cast.

K. All voting shall be done by public roll call.

L. Immediately after the candidate has received a majority of votes he or she shall be sworn in as Councilperson and assume office for the remainder of the unexpired term of the vacated office.

History

Source. LA 6–85, eff. July 13, 1985.

Amended. LA 8–02, eff. March 15, 2002.

Amended. LA 23–05, eff. June 28, 2005.

Library References

Indians O217.

Westlaw Topic No. 209.

§ 4. Repealed by LA 34–07, eff. September 13, 2007

History

The repealed section, relating to employment of relatives of Council Members, was derived from LA 17–87.

§ 5. Publication of Council minutes

The approved minutes of each Council meeting, Executive Sessions excepted, will be published in the *Cherokee Phoenix* in their entirety on a regular monthly basis.

History

Source. LA 18–87, eff. April 13, 1987.

CHAPTER 2

COMMITTEES

Section

11. Standing Committees—Establishment
12. Standing Committees—Membership
13. Standing Committees—Jurisdiction and duties
14. Code Subcommittee—Establishment—Composition—Compensation of Members—Meetings
15. Repeal of prior legislation

§ 11. Standing Committees—Establishment

The following Standing Committees of the Council are hereby established:

1. Community Services
2. Rules Committee
3. Resources Committee
4. Executive and Finance Committee
5. Education and Culture Committee
6. Health Committee

History

Source. LA 4–85, eff. July 13, 1985.

Amended. LA 27–88, eff. June 11, 1988.

Amended. LA 32–89, eff. June 10, 1989.

Amended. LA 14–91, eff. September 14, 1991.

Amended. LA 4–95, eff. August 14, 1995.

Amended. LA 36–07, eff. September 13, 2007.

Library References

Indians ○210.

Westlaw Topic No. 209.

C.J.S. Indians §§ 57 to 59, 66 to 72.

§ 12. Standing Committees—Membership

Membership on all Standing Committees shall be by appointment of the Deputy Principal Chief with nominations for the appointments coming from the Council of Cherokee Nation. Without good cause shown, no appointment of a nominee shall be denied. All nominations shall be brought before the Council for approval and confirmation. The Principal Chief and Deputy Principal Chief shall serve as non-voting ex-officio members of any Standing Committee. The Council shall set the number of members to serve on each Standing Committee.

History

Source. LA 4–85, eff. July 13, 1985.

Library References

Indians O217.
Westlaw Topic No. 209.

§ 13. Standing Committees – Jurisdiction and duties

The Council shall define the jurisdiction and duties of the Standing Committees in the Rules of Procedure governing the Tribal Council.

History

Source. LA 4–85, eff. July 13, 1985.

Library References

Indians O210.
Westlaw Topic No. 209.
C.J.S. Indians §§ 57 to 59, 66 to 72.

§ 14. Code Subcommittee – Establishment – Composition – Compensation of Members – Meetings

A Code Subcommittee is hereby established within the Rules Committee of the Council of Cherokee Nation to be composed of such members of the Rules Committee as the Chairman of that Committee shall appoint. The Code Subcommittee shall serve without additional compensation. The Subcommittee shall meet upon the call of the Chairman.

History

Source. LA 38–07, eff. October 24, 2007.

§ 15. Repeal of prior legislation

Any and all resolutions, bills, or laws pertaining to establishing committees and the duties and procedures thereof are hereby repealed.

History

Source. LA 4–85, eff. July 13, 1985.

CHAPTER 3

SALARIES AND EXPENSES

Section

21. Compensation of Council Members—Generally
22, 23. Repealed

A. Tribal Council Member. Salaries of Council Members of Cherokee Nation shall be the average of the salaries paid to the Council Members or comparable office of the members of the five Civilized Tribes and the Eastern Band of Cherokees based on a survey conducted of available information. Provided that this amount shall not exceed Fifty Thousand Dollars (\$50,000.00) or fall below Twenty-Eight Thousand Six Hundred Dollars (\$28,600.00).

B. Salaries for future terms of elected officials. For all duly elected officials serving on August 2011, and thereafter the annual salaries for the Principal Chief, Deputy Principal Chief, and Council Members of the Cherokee Nation shall be based on the report submitted from a citizen committee.

1. The Citizens Committee shall be comprised of two (2) appointees by the Principal Chief, two (2) appointees by the Council of the Cherokee Nation, and a fifth member selected by the four appointees.
2. The Citizens Committee shall be paid Five Hundred Dollars (\$500.00) per committee member to cover all expenses they incur to attend up to three of their meetings which will be a maximum of One Thousand Five Hundred Dollars (\$1,500.00) per committee member.
3. The Citizens Committee shall convene prior to the filing period for elected offices in the election year of the Principal Chief to make its findings and report and meet every four (4) years thereafter. The committee shall submit their report prior to July 1st.
4. The Citizens Committee shall consider relevant comparative salary levels such as, but not limited to, salary information from other Tribal Governments, state and local governments, and the private sector. The Citizens Committee may use the Cherokee Nation's Human Resources and the Council of the Cherokee Nation's Financial Officer as sources of information.
5. The report of the citizen committee shall set the salaries for all elected officials of the Cherokee Nation unless rejected by Legislative Act within thirty (30) days, of the committee's report.

History

Source. LA 05-85, eff. July 13, 1985.

Amended. LA 24-87, eff. October 29, 1987.

Amended. LA 11-91, eff. August 10, 1991.

Amended. LA 18-03, eff. August 18, 2003.

Amended. LA 42-03, eff. December 30, 2003.

Amended. LA 40-07, eff. November 20, 2007.

Amended. LA 05-95, eff. October 15, 1995,

repealed by LA 17-09, eff. June 22, 2009.

Amended. LA 08–97, eff. May 12, 1997.
Amended. LA 28–99, eff. December 18, 1999.
Amended. LA 28–01, eff. August 13, 2001.

Amended. LA 17–09, eff. June 21, 2009.
Amended. LA 05–11, eff. February 22, 2011.
Amended. LA 10–12, eff. March 13, 2012.
Amended. LA 01–15, eff. March 11, 2015.

SALARIES & EXPENSES

**19 CNCA §§ 22, 23
Repealed**

Cross References

Compensation from other sources—Compensation information publicly available—Health insurance and retirement options—Insurance policies—Recalculation of salaries, see 51 CNCA § 2.

Library References

Indians O216.
Westlaw Topic No. 209.
C.J.S. Indians § 59.

§§ 22, 23. Repealed by LA 17-09, eff. June 21, 2009

History

The repealed sections, relating to travel expense reimbursement of the Tribal Council, were derived from:	LA 30-88.
LA 05-85.	LA 08-97.
LA 19-87.	LA 23-99.
	LA 05-09.

CHAPTER 4

OFFICERS AND MEETINGS

Section

- 31. President of the Council
- 32. Secretary of the Council
- 33. Time and place of sessions
- 33.5. Attendance by means of electronic interactive device
- 34. Adjournment of sessions
- 35. Rules and procedure generally
- 36. Order of business
- 37. Roll call votes
- 37.5. Executive Session

COUNCIL ATTENDANCE

- 38. Short title
- 38.1. Purpose
- 38.2. Legislative intent
- 38.3. Quorum
- 38.4. Absence
- 38.5. Establishment of quorum
- 38.6. Compelling attendance
- 39. Legislative Aide

§ 31. President of the Council

The Deputy Principal Chief shall preside over meetings of the Council, as President of the Council, and in his absence this function shall be performed by any Member whom the Council shall designate.

History

Source. LA 03–85, eff. July 13, 1985.

Library References

Indians **O**210, 216.
Westlaw Topic No. 209.
C.J.S. Indians §§ 57 to 59, 66 to 72.

§ 32. Secretary of the Council

The Council shall select from its membership a Secretary of the Council. The Secretary or his delegated deputy shall attend all meetings of the Council and be responsible for maintaining the journal and providing any clerical assistance requested by the Council.

History

Source. LA 03–85, eff. July 13, 1985.

Library References

Indians O210, 216.

Westlaw Topic No. 209.

C.J.S. Indians §§ 57 to 59, 66 to 72.

§ 33. Time and place of sessions

The Council of Cherokee Nation shall meet in regular session once a month on the second Saturday at the seat of government of Cherokee Nation, three miles south of Tahlequah, Oklahoma, commencing at 9 a.m.

History

Source. LA 03–85, eff. July 13, 1985.

Library References

Indians O210.
Westlaw Topic No. 209.
C.J.S. Indians §§ 57 to 59, 66 to 72.

§ 33.5. Attendance by means of electronic interactive device

A. At-Large Members of the Cherokee Nation Tribal Council may attend Tribal Council Committee meetings through the aid of a device which provides two-way transmission of both visual and audio communication, provided that there is otherwise a quorum physically present at the location of the meeting without counting the Members attending via electronic devices, and also provided that the physically absent Members are able to fully participate and vote through the aid of the interactive devices.

B. Any Member of the Tribal Council who is unable to attend a meeting or session because he or she is conducting official Cherokee Nation business may attend Tribal Council Committee meetings through the aid of a device which provides two-way transmission of both visual and audio communication, provided that there is otherwise a quorum physically present at the location of the meeting without counting the Members attending via electronic devices, and also provided that the physically absent Members are able to fully participate and vote through the aid of the interactive devices. Further this privilege may be extended to any Member of the Cherokee Nation Tribal Council who is unable to attend committee meetings provided that two-thirds (2/3) of the committee approves the circumstances or reason for the Council person being unable to be physically present.

C. The provisions of the act do not apply to a Chairperson of a Committee.

History

Source. LA 42–07, eff. December 27, 2007.

Library References

Indians O210.
Westlaw Topic No. 209.
C.J.S. Indians §§ 57 to 59, 66 to 72.

§ 34. Adjournment of sessions

Sessions of the Council shall be adjourned to a day certain or the next Regular Session.

Source. LA 03–85, eff. July 13, 1985.

History

Library References

Indians O210.
Westlaw Topic No. 209.
C.J.S. Indians §§ 57 to 59, 66 to 72.

§ 35. Rules and procedure generally

All proceedings, meetings, and sessions of the Council shall be conducted in accordance with recognized rules and procedures, and, where the same do not conflict with rules adopted by the Council, this chapter or the Constitution, said recognized rules and procedures shall be consistent with Robert's Rules of Order, revised edition.

History

Source. LA 03–85, eff. July 13, 1985.

Library References

Indians O210.
Westlaw Topic No. 209.
C.J.S. Indians §§ 57 to 59, 66 to 72.

§ 36. Order of business

The order of business of each regular meeting of the Council of Cherokee Nation shall be as follows:

- A. Call to order
- B. Invocation
- C. Roll call
- D. Approval of minutes of previous meeting
- E. State of the Nation address
- F. Action of unfinished business
- G. Committee reports
- H. New business
- I. Adjournment

History

Source. LA 03–85, eff. July 13, 1985.

§ 37. Roll call votes

Indians O210.
Westlaw Topic No. 209.
C.J.S. Indians §§ 57 to 59, 66 to 72.

Library References

A roll call vote shall be called, the vote recorded on every law and, when requested by any Member of the Council, on individual resolutions and said vote shall be recorded in the permanent journal of the Council.

OFFICERS & MEETINGS

19 CNCA § 38

History

Source. LA 03–85, eff. July 13, 1985.

Library References

Indians O210.
Westlaw Topic No. 209.
C.J.S. Indians §§ 57 to 59, 66 to 72.

§ 37.5. Executive Session

A. The Tribal Council and its Committees shall be able to go into Executive Session for the following reasons:

1. When discussion shall concern employment, retention or discharge of personnel;
2. When the question or the moral turpitude of any citizen of Cherokee Nation is discussed; or
3. When the decorum of the audience shall prejudice orderly administration of business.

B. Prior to going into Executive Session the specific reason and justification must be stated and made a part of the minutes of the meeting.

C. No subject other than the items specifically stated may be discussed in Executive Session.

D. Upon entering into Executive Session, no vote shall be taken nor any course of action be agreed upon by the Council.

E. All Executive Sessions shall be recorded. Upon leaving Executive Session, the tape shall be sealed and kept in a secure location by the Council staff. The recording shall not be made available to any party unless ordered by the Court of law with appropriate jurisdiction.

F. Nothing in this act shall prevent Councilors from privately meeting to obtain proprietary or sensitive information, provided that a quorum is not established at such meetings.

History

Source. LA 38–04, eff. September 16, 2004.

COUNCIL ATTENDANCE

History

Source. LA 03–99, eff. January 28, 1999.

Library References

Indians O210.
Westlaw Topic No. 209.
C.J.S. Indians §§ 57 to 59, 66 to 72.

§ 38. Short title

This act shall be known and may be cited as “The Council Attendance Act of 1998.”

History

Source. LA 03–99, eff. January 28, 1999.

Library References

Indians O210.
Westlaw Topic No. 209.
C.J.S. Indians §§ 57 to 59, 66 to 72.

19 CNCA § 38.1

COUNCIL

§ 38.1. Purpose

The purpose of this act is to allow the Council to ensure attendance of a quorum as defined in the Constitution of Cherokee Nation whereby they may conduct the necessary affairs of Cherokee Nation.

History

Source. LA 03–99, eff. January 28, 1999.

Library References

Indians O210.
Westlaw Topic No. 209.
C.J.S. Indians §§ 57 to 59, 66 to 72.

§ 38.2. Legislative intent

The intent of the Council in enacting this act is to ensure legislative matters to be addressed by the Council are resolved in a timely manner without unreasonable or unwarranted delay.

History

Source. LA 03–99, eff. January 28, 1999.

Library References

Indians O210.
Westlaw Topic No. 209.
C.J.S. Indians §§ 57 to 59, 66 to 72.

§ 38.3. Quorum

A quorum shall consist of at least two-thirds (2/3) of the Members of the Council thereof regularly elected and qualified.

History

Source. LA 03–99, eff. January 28, 1999.

Library References

Indians O210.
Westlaw Topic No. 209.
C.J.S. Indians §§ 57 to 59, 66 to 72.

§ 38.4. Absence

No Member of the Cherokee Nation Tribal Council shall absent himself or

History

Source. LA 03–99, eff. January 28, 1999.

Library References

Indians O210.
Westlaw Topic No. 209.
C.J.S. Indians §§ 57 to 59, 66 to 72.

herself from attendance at regular or special meetings, as defined in Article V, Sections 4 and 5 of the Cherokee Constitution of 1975 [now Article VI, Sections 4 and 5], without leave.

History

Source. LA 03-99, eff. January 28, 1999.

Library References

Indians O210.
Westlaw Topic No. 209.
C.J.S. Indians §§ 57 to 59, 66 to 72.

§ 38.5. Establishment of quorum

If, at any regular or special council meeting, as defined in Article V, Sections 4 and 5 of the Cherokee Constitution of 1975 [now Article VI, Sections 4 and 5], a question shall be raised by any Councilor as to the presence of a quorum, the President of the Council shall forthwith direct the Secretary to call the roll and shall announce the result, and these proceedings shall be without debate.

History

Source. LA 03–99, eff. January 28, 1999.

Library References

Indians O210.
Westlaw Topic No. 209.
C.J.S. Indians §§ 57 to 59, 66 to 72.

§ 38.6. Compelling attendance

Whenever upon such roll call it shall be ascertained that a quorum is not present, a majority of the Council present may direct the Chief of the Marshal Service to request and, when necessary, to compel the attendance of the absent Councilor(s), which order shall be determined without debate, and pending its execution, and until a quorum shall be present, no debate nor motion, except to adjourn or to recess pursuant to a previous order entered by unanimous consent, shall be in order.

History

Source. LA 03–99, eff. January 28, 1999.

Library References

Indians O210.
Westlaw Topic No. 209.
C.J.S. Indians §§ 57 to 59, 66 to 72.

§ 39. Legislative Aide

A. The Legislative Aide shall be the custodian of all official recordings of Committee or Council meetings regardless of whether or not the Legislative Aide performed the actual recording. The Legislative Aide shall not release original records and shall maintain those records in a secure place.

B. The Legislative Aide shall maintain and not relinquish custody of the recordings except as provided herein.

C. The Legislative Aide shall make a public copy of the records for copying and inspection. Any citizen of Cherokee Nation, upon written request, may inspect and listen to a copy of the records in the offices of the Clerk.

D. The Legislative Aide shall make provisions upon written request for a copy of the records and tender of cost of copying by any citizen of Cherokee Nation to copy the records within forty-eight (48) hours.

E. After the expiration of three (3) years, the Legislative Aide shall transfer

custody of the original records for archiving in the Cherokee National Historical Society.

O

Indians 210. Westlaw Topic No. 209.
C.J.S. Indians §§ 57 to 59, 66 to 72.

Source. LA 12–
97, eff. July 14,
1997.

CHAPTER 5

GOVERNMENTAL RECORDS

41. Requests for records

§ 41. Short title

This Act shall be known and may be cited as the Cherokee Nation Governmental Records Act.

History

Source. LA 06–98, eff. February 9, 1998.
Amended. LA 21–12, eff. June 13, 2012.
Amended. LA 15–14, eff. June 20, 2014.

Library References

Records O2. C.J.S. Commerce § 177.
Westlaw Topic No. 326. C.J.S. Records §§ 9 to 10.

§ 42. Purpose

The purpose of this Act is to provide for open access to each Member of the Council of Cherokee Nation (“Council”) to all “records” as defined below prepared in the discharge of governmental duties of the “Cherokee Government” as defined below, and to provide procedures under which the Council and its Members shall obtain such records.

History

Source. LA 06–98, eff. February 9, 1998.
Amended. LA 21–12, eff. June 13, 2012.
Amended. LA 15–14, eff. June 20, 2014.

Library References

Records O30, 33.
Westlaw Topic No. 326.
C.J.S. Records §§ 74, 76 to 78, 80, 112.

§ 43. Findings

The Council of Cherokee Nation finds as follows:

1. Pursuant to Article VI, Section 7 of the Cherokee Constitution of 1999, the Council, as the Legislative Department of the Government, has “the power to establish laws which it shall deem necessary and proper for the good of the Nation.”
2. Among the constitutional duties of the Council are the responsibilities to oversee the implementation of the laws enacted by the Council and oversee

the disbursement of funds appropriated by the Council. In order to

carry out these duties, the Council must have access to all records of the Cherokee Government.

History

Source. LA 06–98, eff. February 9, 1998.

Amended. LA 21–12, eff. June 13, 2012.

Amended. LA 15–14, eff. June 20, 2014.

Library References

Indians O214.

Records O30, 33.

Westlaw Topic Nos. 209, 326.

C.J.S. Indians § 59.

C.J.S. Records §§ 74, 76 to 78, 80, 112.

§ 44. Definitions

A. **“Cherokee Government”** means collectively, the Cherokee Nation, its elected officials, officers, employees, agents and contractors, or any of the Nation’s constitutionally or statutorily created agencies, commissions, boards, corporations and their subsidiaries, or other entities, and their elected officials, officers, directors, employees, members, agents and contractors.

B. **“Records”** means all documents, including but not limited to any book, paper, photograph, microfilm, data files created by or used with computer software, computer tape, disk, and record, sound recording, film recording, video record or other material regardless of physical form or characteristic, created by, received by, under the authority of, or coming into the custody, control or possession of the Cherokee Government. **“Records”** does not mean computer software or nongovernmental personal effects.

History

Source. LA 06–98, eff. February 9, 1998.

Amended. LA 21–12, eff. June 13, 2012.

Amended. LA 15–14, eff. June 20, 2014.

§ 45. Requests for Records

A. Requests for records shall be in writing and addressed to the Director, CEO, or Supervisor of the Department, Agency, Entity or Principal Chief that is the subject of the request. The request shall identify with particularity the agency(ies) or other entity(ies) and/or the matter(s) which are the subject of the request. Said requests shall be delivered to the legislative aide of the Council, who shall enter said request in the records of the Council and shall deliver it to the Director, CEO, or Supervisor of the Department, Agency, Entity or Principal Chief that is the subject of the request on the same or the following working day.

B. The Director, CEO, or Supervisor of the Department, Agency, Entity or Principal Chief that is the subject of the request shall cause the records requested to be produced within ten (10) business days of the receipt of such request at no cost to the Council Member(s). If it is not possible to produce the requested record during the prescribed time limit, the Director, CEO, or Supervisor of the Department, Agency, Entity or Principal Chief that is the subject of the request

shall, within the prescribed time limit, provide a written explanation to the Legislative Aide and Council Member(s) as to why the

requested record cannot be made available. If the record cannot be made available at a later date, the Director, CEO, or Supervisor of the Department, Agency, Entity or Principal Chief that is the subject of the request will include a statement as to when the record will be provided to the Council Member(s). In no event shall the total time to produce be extended beyond ten (10) business days from the date of the receipt of the initial request. The Cherokee Nation can extend the time to respond by an additional ten (10) days, but must provide written notification to the requesting party.

C. The Director, CEO, or Supervisor of the Department, Agency, Entity or Principal Chief that is the subject of the request shall provide the requested records to the requesting Council Member(s) and the Council's Legislative Aide so that the response is made a part of the records of the council. The Legislative Aide shall also provide a copy of all requested records to the Principal Chief and Speaker of the Council.

D. No confidentiality agreements affecting records covered by this Act or claim of privilege or confidentiality shall prevent the Council Members from having access to any records.

E. In the event that the record submitted to the Council Member(s) is **"privileged or confidential"** as defined under the federal Freedom of Information Act, 5 U.S.C. Section 552(b)(4) and the federal case law thereunder, is exempt from disclosure under the Cherokee Nation Freedom of Information and Rights of Privacy Act, as amended, or is confidential under Cherokee Nation law, that record shall, nevertheless, be produced or otherwise made available to the requesting Council Member(s); provided, however, that the producing Cherokee Government officer shall give notice to the Council Member(s) of such status and shall clearly mark each such record with the words "Privileged and Confidential." The Council Member(s) shall make no disclosures of such privileged or confidential records to third parties. Without limiting the generality of the foregoing, personal financial information, credit reports or other financial data obtained by or submitted to the Cherokee Government for the purpose of evaluating credit worthiness, obtaining a license, permit or for the purpose of becoming qualified to contract with the Cherokee Government shall be **"privileged or confidential"** under this Act.

F. Individual health, adoption, and medical records, records deemed classified by the Cherokee Nation or U.S. Government, records constituting attorney-client privilege and any records prohibited by law from delivery to the Tribal Council shall not be disclosable to the Council under this Act.

G. Nothing in this Act shall be construed to require the disclosure of any individual's social security number, date of birth, home address or Cherokee Citizenship number. Such information may be redacted even though the record is marked "privileged and confidential" pursuant to subsection (E).

H. Willful and malicious violation of this Act is a crime and upon conviction an individual shall be fined not more than One Hundred Dollars (\$100.00) or imprisoned for not more than thirty (30) days for the first offense, shall be fined not more than Two Hundred Dollars (\$200.00) or imprisoned for not more than sixty (60) days for the second offense, and shall be fined Three Hundred Dollars

(\$300.00) or imprisoned for not more than ninety (90) days for the third or subsequent offense.

History

Source. LA 06–98, eff. February 9, 1998.

Amended. LA 21–12, eff. June 13, 2012.

Amended. LA 15–14, eff. June 20, 2014.

Library References

Records O 30, 33, 34.

Westlaw Topic No. 326.

C.J.S. Records §§ 74, 76 to 80, 87, 102 to 105, 112.

CHAPTER 6

SUBPOENA AND INVESTIGATIONS

Section

- 51. Short title
- 52. Purpose
- 53. Definitions

- 54. Authority to conduct hearings—Procedures
- 55. Subpoena authority
- 56. Mandatory compliance

§ 51. Short title

This legislative act shall be known and may be cited as the “Cherokee Nation Subpoena and Investigation Act of 2000.”

History

Source. LA 18–00, eff. June 12, 2000.

Library References

Indians O210.
Westlaw Topic No. 209.
C.J.S. Indians §§ 57 to 59, 66 to 72.

§ 52. Purpose

The purpose of this act is to enable the Tribal Council to conduct necessary investigations and compel attendance of witnesses and production of documents at properly called hearings before Cherokee Nation Tribal Council.

History

Source. LA 18–00, eff. June 12, 2000.

Library References

Indians O210.
Westlaw Topic No. 209.
C.J.S. Indians §§ 57 to 59, 66 to 72.

§ 53. Definitions

A. **“Contempt”** means a willful disregard or disobedience of a public authority, namely, the Cherokee Nation Tribal Council.

B. **“Hearing”** means a relatively formal proceeding where evidence is taken to determine issues of fact and to render decisions based on that evidence.

C. **“Subpoena”** means a command to appear at a certain time and place to

give testimony upon a certain matter.

D. **“Subpoena duces tecum”** means a subpoena requiring the production of books, papers and other things, which are in the control or custody of the person served with process.

History

Source. LA 18–00, eff. June 12, 2000.

§ 54. Authority to conduct hearings – Procedures

A. The Cherokee Nation Tribal Council shall have the authority to hold hearings and conduct investigation concerning matters in which the Council has oversight authority.

B. A hearing shall be called upon a majority vote of the Tribal Council at Regular Session. The agenda item calling for the hearing shall state the time and place at which the hearing is to be conducted. Further, the agenda shall state in detail the subject matter of the hearing.

C. The Tribal Council shall have authority to require the furnishing of such information, attendance of such witnesses and the production of such books, records, papers or other objects as may be necessary and proper for the purpose of the proceeding.

D. The Tribal Council or its designated representative may take the deposition of witnesses, within or without Cherokee Nation, in the same manner as is provided by law for the taking of depositions in civil actions of courts of record.

History

Source. LA 18–00, eff. June 12, 2000.

Library References

Indians O210.
Westlaw Topic No. 209.
C.J.S. Indians §§ 57 to 59, 66 to 72.

§ 55. Subpoena authority

In furtherance of the powers granted in 19 CNCA § 54, the Tribal Council upon its own motion may, at any hearing:

1. issue subpoenas for witnesses;
2. issue subpoenas duces tecum to compel the production of books, records, papers or other objects, which may be served by any person in any manner prescribed for the service of a subpoena in a civil action; or
3. quash a subpoena or subpoenas duces tecum so issued; provided, prior to quashing a subpoena or subpoenas duces tecum the Tribal Council shall give notice to the necessary parties.

History

Source. LA 18–00, eff. June 12, 2000.

Library References

Indians O210.
Westlaw Topic No. 209.
C.J.S. Indians §§ 57 to 59, 66 to 72.

§ 56. Mandatory compliance

A. In case of disobedience to any subpoena issued and served under this section or to Cherokee Nation Tribal Council requirement for information, or of

the refusal of any person to testify to any matter regarding which he may be interrogated lawfully in a proceeding before the Tribal Council, the Tribal Council or its designated representative may apply to the District Court or to any Judge thereof for an order to compel compliance with the subpoena or the furnishing of information or the giving of testimony. Forthwith the Court or the Judge shall cite the respondent to appear and shall hear the matter as expeditiously as possible.

B. If the disobedience or refusal is found to be unlawful, the Court, or the Judge, shall enter an order requiring compliance. Disobedience of such an order shall be punished as contempt of court in the same manner and by the same procedure as is provided for like conduct committed in the course of judicial proceedings.

C. The Tribal Council shall have the authority to freeze the funding authorities of any department or agency within Cherokee Nation whose directors, employees, appointed or elected officials fail to comply with any subpoena issued and served under this section or fail to furnish information or refuse to testify to Cherokee Nation Tribal Council as required herein.

History

Source. LA 18–00, eff. June 12, 2000.

Library References

Indians O210.

Westlaw Topic No. 209.

C.J.S. Indians §§ 57 to 59, 66 to 72.

CHAPTER 7

DRUG TESTING FOR ELECTED OFFICIALS

Section

- 61. Short title
- 62. Purpose
- 63. Definitions
- 64. Drug testing provisions

§ 61. Short title

This Act shall be known and may be cited as the Elected Officials Drug Testing Act.

History

Source. LA 05–13, eff. March 17, 2013.

§ 62. Purpose

The purpose of this Act is to require elected officials of the Cherokee Nation to undergo random drug testing for prohibited drugs and to set forth possible ramifications for failure of such test or refusal to allow administration of such tests.

History

Source. LA 05–13, eff. March 17, 2013.

§ 63. Definitions

For purposes of this Title:

- 1. **“Prohibited drugs”** means marijuana (THC metabolic), opiates (heroin, morphine), cocaine, phencyclidine (PCP), methamphetamines, oxycodone, amphetamines, barbiturates, and methadone or any other illegal drugs.
- 2. **“Elected Officials”** means any elected or duly appointed officials from the Cherokee Nation, including the Principal Chief, Deputy Chief, and Tribal Council Members.

History

Source. LA 05–13, eff. March 17, 2013.

§ 64. Drug testing provisions

- A. Elected officials shall submit to random drug testing.
- B. An initial drug screening will be conducted within thirty (30) days of the effective date of the policy being adopted and randomly thereafter not to exceed more than one time per year.
- C. If any of the elected officials are suffering from life threatening illnesses, have just recovered from medical procedures or surgeries, are receiving treatments for certain conditions, or take daily prescription drugs for chronic health

issues such as high blood pressure, heart disease and diabetes, they shall

provide documentation, from their physician, to the drug testing laboratory or company so any positives for those drugs will not affect the purposes of this Act. This documentation shall remain confidential and not subject to the Cherokee Nation Freedom of Information Act.

D. The Council of the Cherokee Nation, which is the legislative branch of government, shall determine whether they will use an independent drug testing vendor or the one currently used for Cherokee Nation Employee Drug Testing and will develop policies for the random drug testing since they are not present at the council house on a daily basis.

E. The Chief, Deputy Chief, Cabinet members and Chief Appointees, which is the executive branch of the government, shall determine whether they will use an independent drug testing vendor or the one currently used for Cherokee Nation Employee Drug Testing and will develop policies for their random drug testing.

F. The executive and legislative branch drug testing shall be separate from each other.

G. Anyone with a life threatening, potentially terminal illness is exempt from drug testing due to the number of medications that are required for treatment, survival, and extension of life, which also includes experimental drugs and treatments.

History

Source. LA 05-13, eff. March 17, 2013.

Library References

Indians O218, 320.
Westlaw Topic No. 209.
C.J.S. Indians § 79.

History

Library References

