



## Legislation Text

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File #: CNCA-44, Version: 1

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### TITLE 44 - MEDIA AND PRESS

#### CHAPTER 1

#### INDEPENDENT PRESS

##### § 1. Short title

This act shall be known and may be cited as the Independent Press Amendment Act of 2009.

##### History

**Source.** LA 19-00, eff. March 21, 2005.

**Amended.** LA 08-01, eff. March 16, 2001.

**Amended.** LA 05-05, eff. January 17, 2005.

**Amended.** LA 16-09, eff. June 22, 2009.

##### § 2. Purpose

This act affirms the policy regarding the Cherokee Nation's press. It is imperative to have measures in place to ensure the freedom of the press and to ensure the tribal publications have the independence to report objectively.

##### History

**Source.** LA 19-00, eff. March 21, 2005.

**Amended.** LA 08-01, eff. March 16, 2001.

**Amended.** LA 05-05, eff. January 17, 2005.

**Amended.** LA 16-09, eff. June 22, 2009.

##### § 3. Constitutional rights

The Constitution of Cherokee Nation provides that the principles of free speech and free press, the rights of the people to assemble and petition for redress of grievances shall not be abridged.

##### History

**Source.** LA 19-00, eff. March 21, 2005.

**Amended.** LA 08-01, eff. March 16, 2001.

**Amended.** LA 05-05, eff. January 17, 2005.

**Amended.** LA 16-09, eff. June 22, 2009.

### **Library References**

Indians <KEY>214.

Westlaw Topic No. 209.

C.J.S. Indians § 59.

### **§ 4. Policy, an independent Cherokee media**

The Cherokee Nation's Publications Department shall be independent from any undue influence and free of any particular political interest. It is the duty of the Publications Department to use any necessary forms of electronic and print media to report without bias the activities of the government and the news of interest to have informed citizens.

### **History**

**Source.** LA 19-00, eff. March 21, 2005.

**Amended.** LA 08-01, eff. March 16, 2001.

**Amended.** LA 05-05, eff. January 17, 2005.

**Amended.** LA 16-09, eff. June 22, 2009.

### **§ 5. Providing for independent print and electronic publications**

A newspaper and other forms of electronic media shall be published periodically to report news and provide a forum for all views of the Cherokees.

### **History**

**Source.** LA 19-00, eff. March 21, 2005.

**Amended.** LA 08-01, eff. March 16, 2001.

**Amended.** LA 05-05, eff. January 17, 2005.

**Amended.** LA 16-09, eff. June 22, 2009.

## § 6. Editorial Board

A. An Editorial Board is hereby created and shall consist of five (5) members. At least three (3) Board members must (i) be at least 25 years of age, (ii) have quality experience in the management and operations of publications, (iii) be of good character and have a reputation of integrity, (iv) be physically able to carry out the duties of office, and (v) certify he or she will adhere to the standards of accepted ethics of journalism as defined by the Society of Professional Journalists and endorsed by the Native American Journalists Association. The other Board members must (i) be at least 25 years of age, (ii) have quality experience in business management, (iii) be of good character and have a reputation of integrity, and (iv) be physically able to carry out the duties of office.

B. The Principal Chief shall appoint two (2) members of the Board who must be citizens of Cherokee Nation; the Council shall appoint two (2) members of the Board who must be citizens of Cherokee Nation; and the fifth member shall be appointed by the initial four (4) members and must be a member of a federally-recognized tribe. All members shall be subject to confirmation by the Council and the Principal Chief.

C. One (1) member shall serve as Chairperson, one (1) member shall serve as Vice-Chairperson and one (1) member shall serve as Secretary. Officers shall be designated by the Editorial Board at the first meeting of each fiscal year.

D. The terms of office of the Board members shall be six (6) years. The term for the Seat 4 Board Member shall commence October 1, 2009 and expire on October 1, 2014; the term for the Seat 5 Board Member shall commence January 1, 2010 and expire on January 1, 2015.

E. Board Members shall serve their terms of office free from political influence from any Executive or Legislative Officials of any Branch, Division or Department of the government of the Nation and may be removed only for cause subject to a hearing by the Supreme Court. A petition for removal for cause may be brought by a vote of the majority of Council Members, or the Principal Chief. Except as authorized under the Constitution of Cherokee Nation, no member of the Board shall, directly or indirectly, solicit, receive or in any manner be concerned in soliciting or receiving any assessment, subscription or contribution for any political organization, candidacy or other political purpose. The Board Members shall not participate in any political campaign or be involved in any tribal political activity, except to exercise his or her right as a citizen to express his or her individual opinion and cast his or her right to vote.

F. The Board Members shall be provided a monthly stipend to be paid after the first meeting of each month. The stipend for Board Officers will be Three Hundred Fifty Dollars (\$350.00) monthly and the stipend for other Board Members will be Three Hundred Dollars (\$300.00) monthly. The Board Members shall be provided reimbursement of reasonable expenses incurred in the pursuit of their duties in accordance with the policies of Cherokee Nation.

## History

**Source.** LA 19-00, eff. March 21, 2005.

**Amended.** LA 08-01, eff. March 16, 2001.

**Amended.** LA 05-05, eff. January 17, 2005.

**Amended.** LA 16-09, eff. June 22, 2009.

## **§ 7. Powers and duties**

The Editorial Board shall have the following powers and duties:

1. To establish and enforce an editorial policy that will be fair and responsible in reporting of general news, current events and issues of Cherokee concern including activities of the community, language, culture, history and other subjects which will inform the Cherokee citizenry about their government, tribe, and culture.
2. To ensure the operational structure is sound and that the duties and obligations required of the Board are fulfilled.
3. To review departmental policies to ensure fairness and professionalism in all department practices.
4. To hold periodic public meetings in order to conduct official department business and policy review.
5. To publish electronically, at least on a quarterly basis, copies of Council meeting minutes and travel expenses of elected officials on the Cherokee Phoenix website to fulfill the intent of previous legislative acts requiring such publications.

## **History**

**Source.** LA 19-00, eff. March 21, 2005.

**Amended.** LA 08-01, eff. March 16, 2001.

**Amended.** LA 05-05, eff. January 17, 2005.

**Amended.** LA 16-09, eff. June 22, 2009.

## **§ 8. Executive Editor**

A. The Executive Editor must (i) be at least 25 years of age, (ii) have a bachelor's degree in journalism or a related field from a college or university, or an appropriate combination of education and experience, (iii) be of good character and have a reputation of integrity, (iv) be physically able to carry out the duties of office, (v) certify he or she will adhere to the standards of accepted ethics of journalism as defined by the Society of Professional Journalists and endorsed by the Native American Journalists Association, (vi) have experience necessary for the successful operation of the publication, and (vii) be a citizen of Cherokee Nation.

B. Whenever a vacancy occurs the Editorial Board shall recommend to the Principal Chief an Executive Editor for appointment.

C. The Executive Editor shall serve his or her term of office free from political influence from any department of the government of the Nation and may be removed only for cause. The Executive Editor shall not, directly or indirectly, solicit, receive or in any manner be concerned in soliciting or receiving any assessment, subscription or contribution for any political organization, candidacy or other political purpose. The Executive Editor shall

not participate in any political campaign or be involved in any tribal political activity, except to exercise his or her right as a citizen to express his or her individual opinion and cast his or her right to vote.

### **History**

**Source.** LA 19-00, eff. March 21, 2005.

**Amended.** LA 08-01, eff. March 16, 2001.

**Amended.** LA 05-05, eff. January 17, 2005.

**Amended.** LA 16-09, eff. June 22, 2009.

## **CHAPTER 2**

### **PRESS PROTECTION**

#### **§ 21. Short title**

This act shall be referred as the "Free Press Protection and Journalist Shield Act of 2012".

### **History**

**Source.** LA 13-12, eff. April 20, 2012.

### **Library References**

Privileged Communications and Confidentiality <KEY>404.

Westlaw Topic No. 311H.

C.J.S. Witnesses §§ 415 to 418.

#### **§ 22. Purpose**

The purpose of this act is to affirm the independence of a free press in Cherokee Nation by providing protection of journalistic sources and information from disclosure in any Cherokee Nation proceeding.

### **History**

**Source.** LA 13-12, eff. April 20, 2012.

### **Library References**

Privileged Communications and Confidentiality <KEY>404.

Westlaw Topic No. 311H.

C.J.S. Witnesses §§ 415 to 418.

## § 23. Definitions

For the purposes of this act:

1. **"Cherokee Nation proceeding"** includes any proceeding or investigation before or by any judicial, legislative, executive or administrative body within Cherokee Nation.
2. **"Information"** includes any written, oral or pictorial news or any digital or tangible record.
3. **"Journalist"** means any person who is a reporter, photographer, editor, commentator, journalist, correspondent, announcer, videographer, or other individual regularly engaged in obtaining, writing, reviewing, editing, or otherwise preparing news for any newspaper, periodical, press association, newspaper syndicate, wire service, website, radio or television station, or other news service. Any individual employed by any such news service in the performance of any of the above-mentioned activities shall be deemed to be regularly engaged in such activities.
4. **"Medium of communication"** includes any newspaper, other periodical, book, pamphlet, website, podcast, news service, wire service, news or feature syndicate, broadcast station or network, cable television system, video, live stream, or other record.
5. **"Processing"** includes compiling, storing and editing of information.
6. **"Published information"** means any information disseminated to the public by the person from whom disclosure is sought.
7. **"Unpublished information"** includes information not disseminated to the public by the person from whom disclosure is sought, whether or not related information has been disseminated, and includes, but is not limited to, all notes, outtakes, photographs, video clips or other data of any type not itself disseminated to the public through a medium of communication, whether or not published information based upon or related to such material has been disseminated.

## History

**Source.** LA 13-12, eff. April 20, 2012.

## § 24. Protection of sources and other information-Exceptions

A. No journalist shall be required to disclose in a Cherokee Nation proceeding either:

1. The source of any published or unpublished information obtained in the gathering, receiving or processing of information for any medium of communication to the public; or
2. Any unpublished information obtained or prepared in gathering, receiving or processing of information for any medium of communication to the public, unless the court finds that the party seeking the information or identity has established by clear and convincing evidence that such information or identity is relevant to a significant issue in the action and could not with due diligence be obtained by alternate means.

B. This section does not apply with respect to the content or source of allegedly defamatory information, in a civil action for defamation wherein the defendant asserts a defense based on the content or source of such information.

### **History**

**Source.** LA 13-12, eff. April 20, 2012.

### **Library References**

Privileged Communications and Confidentiality <KEY>404.

Westlaw Topic No. 311H.

C.J.S. Witnesses §§ 415 to 418.