

**CHEROKEE COUNCIL HOUSE
CHEROKEE, NORTH CAROLINA**

Date: _____

ORDINANCE NO.: _____ (2026)

An ordinance to revise the process for filing ethics complaints and for publishing ethics reports.

11 WHEREAS, Tribal law makes Tribal officials subject to certain ethics and reporting
12 requirements, allows for the filing of ethics complaints against Tribal officials, and
13 requires the publication of ethics reports in the Cherokee One Feather; and

15 WHEREAS, these laws were written broadly and in their current form sometimes allow a person
16 to file a complaint based on allegations that are false or cannot be substantiated;
17 and

19 WHEREAS, these laws have resulted in the publication of reports even when the Office of
20 Internal Audit and Ethics has found that the person against whom the complaint
21 was made did not violate the Code of Ethics, and the publication causes unfair and
22 damaging publicity for the person who did no wrong; and

24 WHEREAS, these laws should be amended to avoid these unintended consequences and to tailor
25 them to Tribal timing and operational and needs; and

27 WHEREAS, these amendments will not lessen the substance, effectiveness, or enforcement of
28 the Code of Ethics.

30 NOW THEREFORE BE IT ORDAINED, by the Tribal Council of the Eastern Band of Cherokee
31 Indians, in council assembled at which a quorum is present, that the Cherokee Code
32 is hereby amended as follows:

34 Sec. 96-6. - Complaint; investigation; conciliation.

96-5. Complaint, investigation, conciliation.

- (a) Any covered employee who believes that he or she has been subject to prohibited discrimination found in Cherokee Code Section 96-5 may file a complaint with the Office of Internal Audit within 180~~30~~ calendar days of the alleged discrimination. The Office of Internal Audit shall investigate the complaint in accordance with Cherokee Code Section 117-103 and their adopted policies and procedures according to Cherokee Code Section 117-110.
- (b) If the Office of Internal Audit is named in the complaint, then the Department of Justice shall investigate.
- (c) Any reports regarding discrimination are confidential and not subject to disclosure.
- (d) To establish discrimination, a covered employee must demonstrate by a preponderance of the evidence that the covered employee's engagement in protected activity is a substantial motivating factor for the adverse employment action. The supervisor or manager may rebut

1 this claim if he or she demonstrates by a preponderance of the evidence that he or she
2 would have taken the same employment action regardless of the covered employee's
3 participation in protected activity.

4

5 **Sec. 117-45.1. Definitions.**

6 (a) For purposes of this section, the following terms have the meanings defined below:

7 (1) *Tribal officials.* Any person who is:

- 8 a. A Tribal officer as defined in Section 1 of the Charter and Governing
9 Document;
- 10 b. A member of the Cherokee School Board as defined in C.C. Section
11 115-8;
- 12 c. Serving as a member of an authority, board, committee, or commission;
13 ~~as confirmed appointed by Tribal Council, the Executive Committee or~~
14 ~~Principal Chief, and who is subject to removal by the appointing~~
15 ~~authority; or~~
- 16 d. ~~Appointed by Tribal Council or the Executive Committee or Principal~~
17 ~~Chief, and who is subject to removal by the appointing authority, to~~
18 ~~carry out actions, provide guidance, or assistance to the Tribal Council,~~
19 ~~the Executive Committee or to a member of the Executive Committee.~~

20 (2) *Tribal resources.* Refers to instruments belonging to, held by, or received by the
21 EBCI utilized for the economic, social, and political development of the EBCI as
22 a community; and the Tribal offices and programs of the EBCI. Such instruments
23 may include but are not limited to the following:

- 24 a. Land, physical property, and services owned, provided, distributed,
25 administered or allocated by Tribal officials that have been paid for,
26 subsidized, or otherwise acquired by the offices and agencies of the
27 EBCI;
- 28 b. Funds and other financial assets of the EBCI; and
- 29 c. Other Tribal materials made available to Tribal officials while acting in
30 an official capacity, which includes documentation, communications,
31 and other records made available to a Tribal official.

32 (3) *Personal interest.* Means any interest in which there exists a likelihood for direct
33 or indirect gain of any kind, including, but not limited to, employment contracts,
34 benefits, salaries, funding, or ownership or investment held by a Tribal official, or
35 immediate family member of Tribal officials.

36 (4) *Conflict of interest.* A conflict of interest shall be deemed to arise when a Tribal
37 official, or any member of their immediate family, or an organization or firm
38 which employs such Tribal official or family member, has a financial or personal
39 interest that interferes with, or appears to interfere with, fair and impartial
40 decisions or actions by a Tribal official.

41 (5) *Recuse.* Recuse or recusal is the act of a Tribal official to avoid a conflict of
42 interest by excusing themselves from meetings, discussions, events and/or votes.

43 (6) *Immediate family.* Shall be defined as spouse, parent, child or brother or sister.

44 (7) *EBCI.* Refers to the Eastern Band of Cherokee Indians and Tribe.

1
2 **Sec. 117-45.3. Code of Ethics.**

3
4 (a) Tribal officials shall not take any official action or participate in the selection, award, or
5 administration of a contract or grant award, if a conflict of interest, real or apparent, shall
6 be involved.

7 (b) Tribal officials shall not directly or indirectly solicit, accept or provide gratuities, favors,
8 or anything of monetary value from contractors, potential contractors or subcontractors
9 who are contracting to perform services or sell goods or property to the Tribe or a Tribal
10 program.

11 (c) Tribal officials, directly or through a business entity in which the Tribal official has a
12 personal interest, shall not enter into any contract for services or goods with any Tribal
13 entity, enterprise, or program for the purpose of either receiving or providing services or
14 goods. This provision shall not apply to such persons qualifying for programs available to
15 all Tribal members.

16 (d) Tribal officials shall treat service to the EBCI as a sacred public trust with fiduciary
17 responsibility, which requires upholding and acting in accordance with laws and
18 engaging in the proper governance of the EBCI in a manner, which is placed above
19 personal and private gain.

20 (e) Tribal officials shall protect and conserve Tribal resources and ensure the appropriate use
21 of Tribal resources falling under the scope of the office of the Tribal official.

22 (f) Tribal officials shall provide every enrolled member a time to be heard on a Tribal issue
23 that falls under the scope of the Tribal official's duties. This paragraph shall not supersede
24 C.C. Section 117-16.

25 (g) Tribal officials shall not use their authority, title, or influence to improperly advance
26 personal or financial interests.

27 (h) Tribal officials shall disclose instances when they believe there has been fraud, waste,
28 abuse, corruption, or violations of this chapter to the Office of Internal Audit and Ethics.

29 (i) Tribal officials shall respect and honor the customs and traditions of the EBCI.

30 (j) Tribal officials shall abide by the laws of any sovereign jurisdiction in which they are
31 present. Tribal officials shall disclose any misdemeanor or felony charges and/or
32 convictions that occur in any jurisdiction while in office to the Office of Internal Audit
33 and Ethics.

34 (k) Tribal officials shall report to the Office of Internal Audit and Ethics, in accordance with
35 that office's rules of procedure, any gift, donation, or contribution in excess of \$200.00 in
36 value received or provided by the Tribal official.

37 (l) Tribal officials shall not act individually, jointly, or through another, threaten, intimidate,
38 or discipline any person as reprisal for any legitimate action taken by the person.

39 (m) Tribal officials shall not offer, solicit or accept, directly or indirectly, anything of value if
40 the gift could reasonably be expected to influence the vote, official actions, or judgment
41 of, or for, the official or could reasonably be considered a reward for any official action
42 or inaction.

43 (n) Tribal officials shall not withhold materials or information from the public pertaining to
44 those items discussed in closed session unless such materials or information are deemed
45 exempt from disclosure in accordance with Chapter 132 of the Cherokee Code.

1 (o) Tribal officials shall not take any official action or participate in a decision with respect
2 to a matter if it will have a direct and predictable effect on the financial interest, personal
3 interest, or present a conflict of interest for the official or employee or his or her
4 immediate family member. Any official in such situation shall recuse himself or herself
5 from participating in a discussion and/or vote on the matter giving rise to such conflict.
6 (p) Tribal officials may participate in private, public, civic, and/or charitable activities
7 provided such activities do not compromise the integrity or reputation of the EBCI or
8 interfere with the performance of official duties.
9 (q) Tribal officials shall maintain or enhance the honesty and integrity of their respective
10 offices; and safeguard the reputation of the EBCI as a whole.
11 (r) Tribal officials shall protect and enhance the environmental and cultural resources,
12 whether natural or man-made, of the EBCI to ensure the security and prosperity of future
13 generations.

14

15 **Sec. 117-107. - Reports.**

16 (a) *Audit reports.*

17 (1) A written report shall be prepared and issued by the Chief Audit and Ethics
18 Executive or designee following the conclusion of each audit. The report will be
19 addressed to appropriate management. Copies of all reports which conclude that a
20 violation of the Code of Ethics (CC 117-45 – CC 117-45.3) occurred the report
21 will be distributed to the Principal Chief, Vice Chief, Tribal Council, and
22 appropriate management. The appropriate director and/or manager of the division,
23 program or entity receiving the report shall respond to the Office of Internal Audit
24 and Ethics indicating within 15 days what actions were taken or will be taken in
25 response to specific report findings and recommendations.
26 (2) The director and/or manager receiving the report shall monitor to determine
27 whether progress is made toward correcting any unsatisfactory conditions. When
28 requested the director and/or manager shall provide to the Office of Internal Audit
29 and Ethics a report on the status of corrective actions. The Office of Internal
30 Audit and Ethics shall determine whether the action taken is adequate to resolve
31 audit findings.
32 (3) If the action is not adequate, the Office of Internal Audit and Ethics will inform
33 the Executive Committee of the potential risk and exposure in allowing the
34 unsatisfactory conditions to continue. The Audit and Ethics Committee will be
35 informed if the Executive Committee is the audited party. If appropriate action is
36 not taken within an acceptable timeframe, the Audit and Ethics Committee will be
37 informed and allowed to exercise their authority as stated in section 117-109(13).

38 (b) *Investigative reports.*

39 (1) A written report shall be prepared and issued by the Chief Audit and Ethics
40 Executive or designee following the conclusion of each investigation. Copies of
41 all reports which conclude that conclude that a violation of the Code of Ethics
42 (CC 117-45 – CC 117-45.3) occurred will be distributed to the Principal Chief,
43 Vice Chief, Tribal Council, and appropriate management.

44 (c) *Public records. Referral for prosecution.*

45 (1) Completed and final audit reports and investigative reports issued by the Office of
46 Internal Audit and Ethics which conclude that a violation of the Code of Ethics

(CC 117-45 – CC 117-45.3) occurred shall be forwarded to the Tribal Prosecutor for potential criminal investigation and prosecution, as provided in subsections (a) and (b) shall be considered public records as defined in C.C. § 1324(d) and shall be subject to disclosure following this procedure:

- (i) The reports described in paragraph (1) shall be provided to the Attorney General or his designee and to the office of Tribal Prosecutor within three business days following the date issued by the Office of Internal Audit and Ethics.
- (ii) Within five business days after receiving such a report, the Attorney General or his designee, and the lead Tribal prosecutor or his designee, shall advise the Office of Internal Audit and Ethics as to whether any information in the report should be redacted pursuant to Chapter 132-11 or to protect a potential investigation by those offices.
- (iii) Within three business days after the expiration of the review and redaction period described in subparagraph (ii), the Office of Internal Audit and Ethics shall make the redacted report (if redactions were deemed necessary by that office) available to the public by providing a copy of the redacted report to the Cherokee One Feather.

Sec. 117-111. - Amendment. Reserved.

~~Proposed amendments to this part 1 of article V shall be submitted to the Audit and Ethics Committee for review before being presented to Tribal Council.~~

BE IT FINALLY ORDAINED, that this ordinance shall become effective upon ratification by the Principal Chief.

29 *Submitted by*