



## NCA 21-113

**CLASSIFICATION: #37. TRIBAL GOVERNMENT**

**A LAW OF THE MUSCOGEE (CREEK) NATION AMENDING MCNCA TITLE 37, CHAPTER 3, SUBCHAPTER 10 ENTITLED "SEXUAL HARASSMENT PROHIBITED"**

**Be it enacted by the National Council of the Muscogee (Creek) Nation:**

**SECTION ONE. AMENDMENT.** This amendment shall be codified in Title 37, Chapter 3, Subchapter 10 of the Code of Laws of the Muscogee (Creek) Nation; provided that for purposes of codification of said amendment and its inclusion in pocket parts of the Code of Laws of the Muscogee (Creek) Nation, the Attorney General is hereby authorized: (1) to approve any changes related to the manner in which sections, articles, chapters and sub-chapters are designated consistent with the format in the Code of Laws published in 2010 by West Publishing Company; (2) to include footnoted references to the legislative history in said pocket parts to the Code of Laws and (3) to note in said pocket parts any editorial correction of minor clerical or grammatical errors in the following amendment, without further National Council approval:

### **SUBCHAPTER 10. SEXUAL HARASSMENT PROHIBITED**

Section 10-101. Prohibition. Sexual Harassment is unlawful. The Muscogee (Creek) Nation does not tolerate Sexual Harassment in any form. Every Elected Official, Board Member, Cabinet Member, Manager, Supervisor and Employee has a responsibility to ensure that sexual harassment does not occur in the workplace. Anyone found to have sexually harassed another person will be subject to **a written apology and** disciplinary action **up to and/or including termination** ~~that may include an apology, counseling, transfer of duties or dismissal.~~

Section 10-102. Definitions. Sexual Harassment shall be defined in the following ways:

A. Sexual Harassment is unwelcome conduct of a sexual nature that is sufficiently persistent or offensive to unreasonably interfere with an employee's job performance or create an intimidating, hostile or offensive working environment. Sexual harassment includes any unwelcome behavior of a sexual nature that could be reasonably expected to make someone feel offended, humiliated or intimidated.

B. Sexual Harassment may include (but is not restricted to):

1. an unwelcome sexual advance;

2. a request for sexual favors;
3. unwelcome comments about someone's sex life or physical appearance;
4. leering and ogling;
5. sexually offensive comments, stories or jokes;
6. displaying sexually offensive photos, pinups or calendars, reading matter or objects;
7. sexual propositions or continued requests for dates;
8. physical contact such as touching or fondling, or unnecessary brushing up against someone; or
9. assault or rape (these are criminal offenses); or
- 10. using of one's position of power/authority in the form of quid pro quo.**

Section 10-103. Policy.

**A.** Reports of sexual harassment will be treated swiftly, seriously and confidentially. All branches of the Tribal Government and all Independent agencies **and Tribal Businesses** shall develop a Sexual Harassment Policy. All branches of the Tribal Government and all Independent Agencies **and Tribal Businesses** shall have ~~90~~180 days to implement a Sexual Harassment Policy **and/or to default to the Nation's Sexual Harassment Policy.** Upon completion, all Sexual Harassment Policies shall be submitted to the Office of the Principal Chief, **Human Resources, Office of the Attorney General** and to the Muscogee (Creek) Nation National Council.

**B.** **In the event a person is found to have engaged in sexual harassment and is terminated, he/she will not be eligible for rehire in any entity of the Muscogee (Creek) Nation, including committees or boards for five years. In addition, depending on the severity or level of the sexual harassment, the Human Resources Department may also require the person to have sexual harassment training and/or counseling at his/her own expense and show proof of said training and/or counseling before becoming eligible for rehire.**

**Section 10-104. Policy Requirements.**

**A.** **Policies must clearly be outlined with a step by step process accompanied with specific titles and positions of whom and how cases will be reported and specific titles and positions of those that will conduct investigations and render a decision.**

**B.** **Human Resources will be responsible for conducting investigations and rendering decisions, as they are the qualified professionals who have training and experience in dealing with sexual harassment in the work place.**

**C. Policies shall reflect preventative action including: taking all steps necessary to prevent sexual harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate sanctions, informing employees of their right to raise and how to raise the issue of sexual harassment and develop methods to sensitize all concerned.**

**D. Policies shall include an explicit policy against sexual harassment that is clearly and regularly communicated to employees and effectively implemented.**

**E. The policy shall outline clear procedures designed to encourage victims of sexual harassment to come forward and should not require a victim to complain first to the offending supervisor. Victims are not required to follow the chain of command when reporting.**

**F. The policy shall ensure confidentiality as much as possible and provide effective remedies, including protection of victims and witnesses against retaliation.**

**G. Policies shall set specific timeframes for human resources or other appropriate parties to investigate and report all allegations and establish immediate and appropriate corrective action.**

**Section 10-404105.** Retaliation Prohibited. The following shall be the policy of the Muscogee (Creek) Nation with respect to any retaliatory action against an employee for reporting or participating in an investigation of sexual assault and shall be implemented in the Sexual Harassment Policy of the branches of Tribal Government and Independent Agencies **and Tribal Businesses**:

A. The Muscogee (Creek) Nation prohibits any form of retaliation against any employee for filing a complaint under this Act or for assisting in a complaint investigation. An employee who files a complaint in good faith shall be free from restraint, coercion, discrimination or reprisal.

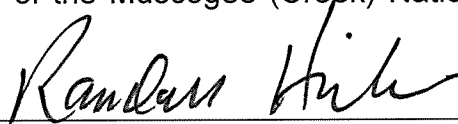
B. Any Elected Official, Board Member, Cabinet Member, Manager, Supervisor and **or Employee of the Muscogee (Creek) Nation, its Independent Agencies and Tribal Businesses,** found guilty of retaliation shall be subject to disciplinary action up to and including removal or dismissal.

**Section 10-405106.** Policy Update. The Sexual Harassment Policy of all branches of the Tribal Government, all Independent Agencies and all Tribal Businesses shall be reviewed and updated every other year and submitted to the Office of the Principal Chief, the Muscogee (Creek) Nation National Council, **Human Resources** and the Office of the Attorney General.

**SECTION TWO. EFFECTIVE DATE.** This Act shall become effective immediately upon proper approval and execution in accordance with the requirements of the Muscogee (Creek) Nation Constitution.

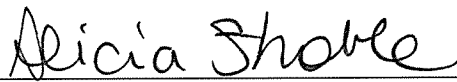
**ENACTED** by the Muscogee (Creek) National Council on this 20<sup>TH</sup> day of November, 2021.

**IN WITNESS WHEREOF**, the Speaker of the Muscogee (Creek) National Council has hereto attached his signature.

  
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Randall Hicks, Speaker  
National Council  
Muscogee (Creek) Nation

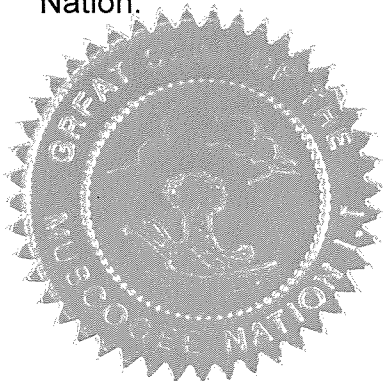
**CERTIFICATION**

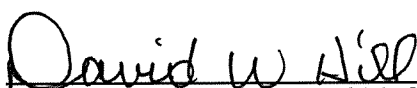
I, the undersigned, certify that the foregoing is a true extract from the minutes of the Muscogee (Creek) National Council comprised of Sixteen members with Sixteen members attending this meeting on the 20<sup>TH</sup> day of November, 2021 and that the above is in conformity with the provisions therein adopted by a vote of 15 in favor, 0 against and that said Law has not been rescinded or amended in any way and the above is the signature of the Speaker of the National Council.

  
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Alicia Stroble, Recording Secretary  
Muscogee (Creek) National Council

**APPROVAL**

I, the Principal Chief of the Muscogee (Creek) Nation, hereby affix my signature on this 29<sup>th</sup> day of November, 2021 to the above Law, **NCA 21-113** authorizing it to become a Law under Article VI., Section VI., of the Constitution of the Muscogee (Creek) Nation.



  
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David W. Hill, Principal Chief  
Muscogee (Creek) Nation