



NCA 11-040

CLASSIFICATION: #18. EDUCATION

A LAW OF THE MUSCOGEE (CREEK) NATION AMENDING MCNCA TITLE 18, CHAPTER 4, ENTITLED "College of the Muscogee Nation Board of Regents"

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

SECTION ONE. FINDINGS. The National Council finds that:

A. The operations of successfully establishing and operating a College require expertise in Education and other relevant areas that are benefited by the oversight of the Board of Regents.

B. The College of the Muscogee Nation Board of Regents shall be independent and function without interference from other branches of government of the Muscogee (Creek) Nation, but shall abide by the established laws of the Muscogee (Creek) Nation.

SECTION TWO. AMENDMENT. MCNCA Title 18, Chapter 4 is hereby amended to read as follows:

§4-101. Short Title.

This Chapter shall be entitled " College of the Muscogee Nation Board of Regents" and shall be codified as Chapter 4 in Title 18, "Education," of the Code of Laws of the Muscogee (Creek) Nation.

§4-102. Definitions. For purposes of this chapter, the following words shall have the following meanings:

A. "Agreement" means the Memorandum of Agreement between the College of the Muscogee Nation Board of Regents and Oklahoma State University-Okmulgee.

B. "Board" means the College of the Muscogee Nation Board of Regents.

C. "Nation" means the Muscogee (Creek) Nation.

D. "Regent(s)" means individual member(s) of the College of the Muscogee Nation Board of Regents.

E. "College" means the College of the Muscogee Nation.

§4-103. Establishment of the College of the Muscogee Nation Board of Regents.

The College of the Muscogee Nation Board of Regents is hereby established as an independent agency of the Muscogee (Creek) Nation. The Board shall establish an institution of higher education to provide collegiate level education to tribal members and non-tribal members.

§4-104. Fiscal Year of the College of the Muscogee Nation Board of Regents.

Initially, the fiscal year of the College of the Muscogee Nation Board of Regents shall coincide with the fiscal year of the Muscogee (Creek) Nation which shall begin on October 1st and end on September 30th of the following year. However, if the Board determines that the fiscal year of the College of the Muscogee Nation Board of Regents would be better suited to coincide with other institutions of higher education, then the Board shall seek National Council approval to change its fiscal year.

§4-105. Registered Office and Agent of College of the Muscogee Nation Board of Regents.

A. **Registered Office.** The registered office of the Board shall be located at the Muscogee (Creek) Nation Tribal Complex, Loop 56 and Highway 75 (P.O. Box 580), Okmulgee, Oklahoma 74447.

B. **Registered Agent.** The registered agent of the Board shall at all times be the person holding the office of Board Chairperson but only for the duration of his/her term of office.

§4-106. Charter.

The Principal Chief shall grant, prepare, issue and execute to the College of the Muscogee Nation Board of Regents a "Charter of Formation" for the Oklahoma Tribal University College of the Muscogee Nation.

§4-107. Purpose and Authority of College of the Muscogee Nation Board of Regents.

A. **Purpose of the College of the Muscogee Nation Board of Regents.** The purpose of the Board is to evaluate the possible establishment of an institute to provide collegiate level education to Muscogee (Creek) Nation citizens and other interested persons.

B. Authority of College of the Muscogee Nation Board of Regents. The Board is hereby authorized to do the following:

1. Adopt and use an official seal;
2. Enter into agreements, contracts, partnerships, cooperative projects and/or any other appropriate relationship with any federal, tribal, state or municipal government, or with any agency or authority of any such government, or with any person, partnership, corporation, college, university or any other legal entity and agree to any conditions attached to federal financial assistance or contract subject to the terms of this chapter;
3. Apply for grants and financial assistance as necessary for the furtherance of the College;
4. Coordinate and partner with other institutes of higher learning;
5. Enter into Co-Chartering, Transfer and/or Articulation Agreements with other institutes of higher learning;
6. Acquire personal property of any kind, including funds, securities and other intangible property or property rights and to own and hold same in its own name, separate and apart from the property and assets of the Muscogee (Creek) Nation;
7. Expend funds appropriated by the Nation; provided the Board may ~~grant funds~~ **delegate its power to the President to expend up to one hundred thousand dollars (\$100,000) for the benefit of the college.**
8. Sell, lease, exchange, transfer and/or assign personal property of any kind owned by the Board.
9. Borrow money; provided that the notes and other obligations of the Board shall not be debts of the Muscogee (Creek) Nation and shall not create a lien or any other encumbrance on any property or assets of the Muscogee (Creek) Nation and any such obligations shall so state on their face;
10. Pledge the assets and receipts of the Board as security for debts;
11. Employ personnel and establish compensation, benefits and conditions for employment and delegate to such personnel any powers and/or duties as the Board may deem proper, subject to the terms of this chapter;
12. Employ consultants, attorneys, advisors, planners and any other experts, as deemed necessary, by written contract in accordance with tribal and federal law;
13. Open and maintain, in the name of the, accounts in any financial institution whose deposits are insured by an agency of the United States government.

14. Enter into partnerships, joint ventures or other arrangements with any person, government, governmental agency or authority, college, university or any other legal entity to effectuate the purposes of the Board, subject to the provisions of this chapter; and
15. Purchase insurance from any stock or mutual company for any property or against any risk or hazards.
16. Will abstain from the involvement of the day to day operations.

§4-108. Board of Regents.

A. College of the Muscogee Nation Board of Regents. The College of the Muscogee Nation Board of Regents is hereby established.

B. Qualifications. A Regent must be a citizen of the Muscogee (Creek) Nation, have at least five (5) years of educational, professional and/or related experience, be at least thirty (30) years of age or older and possess at a minimum a Bachelor's Degree from an accredited college or university.

C. Composition and Terms. The Board shall be comprised of five (5) tribal citizens who shall serve staggered terms. Within ninety (90) days of enactment of this Law, the Principal Chief shall make the following nominations with terms as follows:

1. One nomination to end on September 30, 2005;
2. One nomination to end on September 30, 2006;
3. One nomination to end on September 30, 2007;
4. One nomination to end on September 30, 2008; and
5. One nomination to end on September 30, 2009.

Thereafter, the terms for said positions shall not exceed six (6) years and shall end on September 30 of the appropriate year. The date on which appointments are made shall have no effect on the ending dates of the Regent's term of office.

D. Appointments. All Regent nominations shall be made by the Principal Chief subject to National Council confirmation by Tribal Resolution. No Regent shall be seated without the National Council majority confirmation. At the expiration of a Regent's term, said Regent shall hold over in office until a new Regent has been nominated and confirmed, provided that no Regent shall hold over in office for more than ninety (90) days.

E. Regent Officers. The Board shall elect from its membership a Chairperson, Vice-Chairperson and Secretary. The term of office shall be for two (2) years. The Chairperson shall preside over all Board meetings and shall execute all documents on behalf of the Board.

F. **Ex-officio Member.** The Human Development Committee Chairperson or his/her designee shall serve as an ex-officio member to the Board in order to act as a liaison between the Board and the National Council. The ex-officio member may participate in discussions at the Board meeting but shall not make motions or vote.

G. **Board Office.** The Nation shall provide the Board with a permanent office in which to conduct meetings and other Board business. The Nation shall charge the Board rent for said space in accordance with established federal guidelines.

H. **Stipend and Mileage.** Regents shall receive a monthly stipend of Five Hundred Dollars (\$500) for attendance at Board meetings and meetings dealing with the Board and the future formation of the College. Regents shall receive mileage reimbursements for Board meetings and meetings dealing with the Board and the future formation of the College, mileage shall be calculated using the allowable GSA rate. Regents shall turn in attendance and mileage reports to the Nation's Controller no later than the fifth day of the month following the scheduled meetings. The ex-officio Board member may receive mileage from the National Council budget in accordance with National Council Policies and Procedures.

I. **Travel.** With respect to overnight and/or out-of-state travel, the Board shall follow the Nation's travel policies.

J. **Removal.** A Regent may be removed from office as provided for in Muscogee (Creek) Nation Code Annotated Title 31, § 1-101, et seq., entitled "Removal of Officers."

K. **Vacant Seat on Board.** The seat of a Regent may be declared vacant based on failure to attend three (3) consecutive duly convened regular monthly meetings of the Board, except for situations where said Regent has informed the Chairperson of his/her absence from the meeting and the absence is recorded as "excused" in the Board meeting minutes. The declaration of vacancy shall be effected by National Council approval of a Tribal Resolution declaring a vacancy based on Section 110.K. of this Act, submitted to the National Council by the Principal Chief, Second Chief or a National Council Representative, a copy of which shall be mailed to the last known address of the Regent.

L. **Vacancy.** If a vacancy shall arise on the Board, the Principal Chief shall make a nomination to fill said vacancy pursuant to this section. The vacancy shall be only for the remainder of the vacant term.

§4-109. Meetings of Board; Open Meeting Requirements.

A. **Regular Meetings.** Regular meetings of the Board of Regents shall occur bi-monthly at the Board's offices located within the jurisdiction of the Muscogee (Creek) Nation. The date and time of such regular meetings shall be set by the Chairperson, provided that proper notice is given according to the provisions herein. The Board shall adopt procedures not inconsistent with this subsection governing its meetings, which shall address, among other matters, the election of a Chairperson, Vice-Chairperson and Secretary.

B. **Notice of Meetings.** The Chairperson (or in his absence, the Vice-Chairperson) shall give notice of the time and place of any regular monthly meeting of the Board of Regents in writing to each Regent, the Board's attorney, the Attorney General, the Principal Chief and the Speaker of the National Council, at least five (5) days before such meeting. Service of said notice may be effected by first class U.S. mail, facsimile or hand-delivery, and shall be effective on the date of delivery to the official entitled to such notice or to the office of said official's regular place of business in the case of hand-delivery or facsimile transmission; or, in the case of notice sent by U.S. mail, 2 days after the notice, in a properly addressed envelope with sufficient postage thereon, is deposited in the U.S. mail. The date of the postmark on such envelope shall be conclusive evidence of its date of deposit in the U.S. mail. In addition, such notice of the regular monthly meeting shall be posted at the offices of the Regents, the Administration Building of the Capital Complex in at least 2 prominent places and on 2 exterior doors of the Mound Building.

C. **Special Meetings.** Special meetings of the Board of Regents may be held when circumstances require such a meeting. Special meetings may be called (1) by the Chairperson or (2) by a majority of the Regents. Notice of special meetings shall be in writing and served on each Regent, Principal Chief and Speaker of the National Council at least forty-eight (48) hours before such meeting. Service of such notices shall be effected by hand-delivery or facsimile and shall be effective upon the date of delivery to the official entitled to such notice or to the office of said official's meeting shall be posted in at the offices of the Regents, the Administration Building of the complex in at least two (2) prominent places and on two (2) exterior doors of the Mound Building at least forty-eight (48) hours before such special meeting.

D. **Emergency Meetings.** Emergency meetings may only be held in the most extraordinary circumstances. Emergency meetings may be called by giving telephone or facsimile notice to each Regent, the Principal Chief and the Speaker of the National Council, provided that no action in an emergency meeting shall have any valid or binding effect unless ratified at the next regular or special meeting of the Board of Regents.

E. **Quorum.** All meetings of the Board of Regents shall require a majority of the Board members to be present to constitute a quorum and conduct business, which

shall require the physical presence of at least three (3) Regents. If a quorum is established at the beginning of any meeting but is lost during the course of a meeting, no action taken during the period when less than a quorum is present shall be valid.

F. **Meetings.** All meeting of the Board of Regents shall be public meetings; therefore, open to the public, except for executive sessions. The Board may exclude any person from an executive session except the Board's attorney, Principal Chief, Second Chief, Speaker, Second Speaker, any National Council Representative or a representative from the Attorney General's Office; however, the Board may exclude any of the following individuals if said individual is related to an employee or an individual who shall be discussed in the executive session. The Board may go into executive session only (1) to discuss personnel issues and matters of confidentiality that relate to one or more specific employees, or (2) to meet and consult with the Board's attorney on confidential legal matters. All other matters shall be discussed audibly to all persons in the room in open session. Executive sessions may only be held after they have been posted as an item on the agenda for the meeting in which the executive session is held. The general subject of the executive session must be described in the posted agenda, and no action by the Board may occur in executive session. It shall be unlawful for any person present in a meeting held in executive session to make public, or otherwise disclose or describe to any person not so present, any discussion or statements made during such executive session. Violation of any of the open meetings requirements of this section shall constitute a criminal offense punishable by up to six (6) months imprisonment and/or a \$ 500.00 fine. Persons who violate this section shall be subject to expulsion and banishment from the Nation's territory.

G. **Meeting Agenda.** Notice of meetings of the Board of Regents, either regular or special, shall contain an agenda which describes each item of business to be conducted. There may be an agenda item for new business which shall only be for gathering of the Board to discuss Board of Regents business shall be considered a meeting subject to the requirements stated herein.

H. **Minutes.** Minutes of all meeting of the Board of Regents, other than meetings or portions thereof held in executive session, shall be kept by a Recording Secretary. In addition thereto, an audio recording of all meetings shall be made, except for that part of the meeting in executive session.

I. **Null and Void Action.** Any action taken by the Board during a meeting convened or held in violation of this Subsection shall be null and void.

§4-110. Memorandum of Agreement Between the College of the Muscogee Nation Board of Regents and Oklahoma State University-Okmulgee.

Once all nominations to the Board have been confirmed by the National Council, the Board shall begin negotiations with OSU-Okmulgee to establish a Memorandum of Agreement. The purpose of the Agreement is to formalize the relationship between the Board and OSU-Okmulgee. OSU-Okmulgee shall provide the Board with the necessary mentor-protégé relationship that shall enable the Board to establish the College of the Muscogee Nation. At a minimum, the Agreement shall include the following provisions:

- A. Standards of higher education which shall be applicable to the College;
- B. Functions and courses of study at the College, provided that said functions and courses shall conform to prescribed standards;
- C. Establish degrees and other forms of academic recognition for the completion of courses at the College; and
- D. Establish a calendar for the completion of the College's Plan for Initiation.
- E. Once the Agreement is finalized between the Board and OSU-Okmulgee, the Agreement shall be presented to the National Council for approval by duly adopted Tribal Resolution.

§4-111. Powers and Duties of College of the Muscogee Nation Board of Regents.

In addition to any other authority, powers and duties of the Board provided for in this chapter, in furtherance of the purposes of examining and establishing the College, the Board shall have the following powers and duties:

- A. To be responsible for the fiscal affairs of the Board and all ventures under its management and to oversee and control the financial and business affairs of the Board and all ventures under its management through the establishment and implementation in accordance with generally accepted accounting principles of an administrative system that shall include, but not be limited to controlling, accounting and reporting disbursements, payroll, cost management and investments and establishing and maintaining bank accounts in the name of the Board, in any financial institution whose deposits are insured by an agency of the United States Government; provided that expenditures may be made only upon approval by (1) the Chairperson of the Board or (2) another member of the Board who has been designated by duly enacted resolution of the Board to approve the expenditure of funds or (3) subject to the control and oversight of the Board, the President and/or the Dean(s) employed by the Board pursuant to section 113.D. if so authorized by duly enacted resolution of the Board; provided that the Controller shall deliver all funds appropriated through the Muscogee (Creek) Nation pursuant to the Nation's Comprehensive Annual Budgets or special

appropriations acts to the Board for its use in accordance with this chapter and generally accepted accounting principles.

B. Ensure that all records, information and affairs of the Board are located in a safe and secure location.

C. Employ administrative staff to carry out administrative duties for serve the Board.

D. Employ a President, who shall have the authority to hire Dean(s), administrative staff, ~~clerks~~ and other employees who shall be primarily responsible for carrying out the day-to-day operations of the College, subject at all times to oversight by the Board.

E. Adopt administrative and personnel policies and procedures for the Board's staff, any other personnel who are responsible for carrying out the day-to-day operations of the College, provided that said policies and procedures shall include, but not limited to, the following:

1. Fringe benefits, to include, but not limited to medical, dental and vision insurance, life insurance, disability insurance and 401K Plan;
2. Prevention of nepotism in the hiring of personnel and procurement of good and services; and
3. Grievance procedure.

F. Adopt procurement policies and procedures to be used in contracting for and/or purchasing goods, services and supplies, including without limitation rules prohibiting transactions and/or actions which would violate the Nation's laws regarding conflicts of interest.

G. Review and approve educational projects of the College.

H. Hold regular monthly meetings and special meetings of the Board, pursuant to §4-109 of this Title conduct business and discharge its powers and duties hereafter;

I. Delegate such authority to the President and/or Dean(s) of the College as the Board deems appropriate and necessary for the furtherance of the University College.

J. Approve all contracts proposed by the President and/or Dean(s) for the engagement of consultants, advisors, planners, legal counsel, accountants and any other expert whom the Board deems appropriate and necessary to carry out the

purpose of the Board and/or College, provided that all such contracts shall be in writing, approved by Board Resolution at a duly convened Board meeting and available for review upon request of the National Council and Attorney General.

K. Approve contracts, agreements and grants on behalf of the Board and the College.

L. Perform any other functions which are necessary for the betterment of the Board and/or the College.

§4-112. By-laws.

The Board shall adopt by-laws, provided that such by-laws and any amendments shall be in writing and shall not be inconsistent with this chapter.

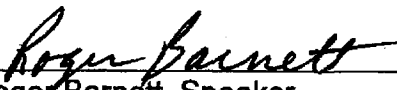
§4-113. Records and Audits.

The Board shall maintain complete and accurate books and records relating to the financial affairs of the Board. By July of each calendar year, the Board shall furnish an annual budget, annual balance sheet and complete annual report of the financial affairs of the Board to the National Council. The books and records of the Board shall be audited each year by an independent Certified Public Accountant in accordance with generally accepted auditing procedures.

SECTION THREE. 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 **26th** day of **March 2011**.

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



Roger Barnett, 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 Twenty-six members with **Twenty-Six** members attending this meeting on the **26th day of March, 2011** and that the above is in conformity with the provisions therein adopted by a vote of **25** in favor, **0** against, **0** abstentions, 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.



ShaRee Edmondson, Acting Recording Secretary
Muscogee (Creek) National Council

APPROVAL

I, the Principal Chief of the Muscogee (Creek) Nation, hereby affix my signature this 8 day of April, 2011, to the above Law, **NCA 11-040** authorizing it to become a Law under Article VI., Section VI., of the Constitution of the Muscogee (Creek) Nation.



A. D. Ellis, Principal Chief
Muscogee (Creek) Nation

