

TITLE 37. TRIBAL GOVERNMENT

ETVLWV ENRAKRAKV

Chapter	Section
1. GREAT SEAL AND OFFICIAL FLAG.	1-101
2. BUDGET AND FINANCE.	2-101
3. EMPLOYEES.	3-101
4. CONFLICT OF INTEREST.	4-101
5. OPEN MEETINGS.	5-101
6. POLITICAL PRESSURE.	6-101
7. DONATIONS.	7-101
8. RIGHT TO WORK.	8-101

CHAPTER 1. GREAT SEAL AND OFFICIAL FLAG

Section
1-101. Official Muscogee (Creek) Nation flag and Great Seal design.
1-102. Manufacture and sale of flag.
1-103. Registering Nation’s seal as servicemark.

§ 1-101. Official Muscogee (Creek) Nation flag and Great Seal design

The flag of the Muscogee (Creek) Nation shall include the Great Seal of the Nation set upon a white background of the flag. As graphically depicted in the Constitution, the seal illustrates a sheaf of wheat and a plow in the center of device surrounded by the words “Great Seal of the Muscogee Nation, I.T.” (Indian Territory)

[NCA 95-114, § 103, approved Dec. 29, 1995.]

Cross References

Official seal, see Const. Art. I, § 3.

Unauthorized use of the Great Seal of the Muscogee (Creek) Nation, see Title 14, § 2-504.

§ 1-102. Manufacture and sale of flag

The Mound Building Oversight Committee is hereby authorized to order the manufacture of and sale of the Tribal flag depicting the Seal of the Muscogee (Creek) Nation as well as other traditional flags. The Mound Building Oversight Committee shall establish a wholesale and retail price for flags. Muscogee (Creek) Nation citizens may purchase flags from the Mound Building Oversight Committee at cost.

[NCA 95-114, § 104, approved Dec. 29, 1995; amended by NCA 98-08, § 103, approved Feb. 6, 1998; amended by NCA 05-013, § 2, eff. Feb. 9, 2005, NCA 05-178, § 1, eff. Sept. 2, 2005.]

Historical and Statutory Notes

Title 37 § 2-112 was initially repealed by repealing NCA 03-201 and repealing Title 37 NCA 03-201, § 7, veto overridden Dec. 23, § 2-112. The School Clothing Program was 2003. NCA 04-118 was subsequently passed recodified in Title 35, Chapter 6.

Title 37, § 1–102

TRIBAL GOVERNMENT

Cross References

Enterprise Fund Flag Account, see Title 37, § 2–209.

Library References

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

§ 1–103. Registering Nation’s seal as servicemark

The Principal Chief or his designee is hereby authorized to make application and complete any other necessary documents in order to register the Nation’s Seal with the United States Patent and Trademark Office as a servicemark.

[NCA 95–114, § 105, added by NCA 98–08, § 104, approved Feb. 6, 1998.]

Cross References

Official seal, see Const. Art. I, § 3.
Unauthorized use of the Great Seal of the Muscogee (Creek) Nation, see Title 14, § 2–504.

Library References

Indians ☞211, 216.
Westlaw Topic No. 209.
C.J.S. Indians §§ 57, 59, 63, 65 to 72, 182.

CHAPTER 2. BUDGET AND FINANCE

Subchapter

1. Required Annual Budget Items
2. Funds and Accounts
3. Advancement of Funds by Bureau of Indian Affairs
4. Tribal Judgment Funds
5. Applications for Financial Assistance
6. Audit Law
7. Controller
8. Office of Internal Audit and Compliance

Cross References

Special appropriations guidelines, see Title 35, § 9-101 et seq.

SUBCHAPTER 1. REQUIRED ANNUAL BUDGET ITEMS

Section

- 2-101. Office of the Attorney General.
- 2-102. Law Enforcement Department.
- 2-103. Fire protection.
- 2-104. Medical Travel Fund.
- 2-105. Litigation and lobbying to protect Tribal sovereignty.
- 2-106. Physical Plant Maintenance and Capital Improvements Program.
- 2-107. National Congress of American Indians; dues.
- 2-108. Drug-free workplace.
- 2-109. Green Corn Ceremonial Assistance.
- 2-110. Repealed.
- 2-111. Employee Protection Commission; Recording Secretary compensation.
- 2-112. Repealed.
- 2-113. Rural volunteer fire department assistance.
- 2-114. Natural disaster assistance.
- 2-115. Eufaula Boarding School Board of Education.
- 2-116. Tribal Emergency Home Improvement Program.
- 2-117. Medical Assistance Program.
- 2-118. Comprehensive Assistance Grant Program for Churches and Ceremonial Grounds.
- 2-119. Mvskoke (Creek) Nation Pageant and Royalty.
- 2-120. Senior Services Department.
- 2-121. Grave preparation expenses.
- 2-122. Tribal Energy Assistance Program.
- 2-123. Este Cate Veterans (MVSOKOKE Nation) Honor Guard.
- 2-124. Muscogee Nation War Memorial; replacement of flags.
- 2-125. Day of Prayer.
- 2-126. National Council Speaker; compensation.
- 2-127. Tribal Construction Engineer.
- 2-128. Office of National Council Speaker; technical equipment/software maintenance.
- 2-129. Murrow Indian Children's Home.
- 2-130. Special Academic/Extra-Curricular Program.
- 2-131. Tribal Funds Grant and Tribal Incentive Grant Program.
- 2-132. Post-Graduate Program.
- 2-133. Burial assistance.
- 2-134. Original Allottees Client Services.
- 2-135. Muscogee (Creek) Nation Legal Services Clinic.
- 2-136. Incarceration of prisoners in county facilities.

Title 37, § 2-101

TRIBAL GOVERNMENT

Section

2-137. College of the Muscogee (Creek) Nation.

§ 2-101. Office of the Attorney General

A. The Attorney General shall prepare a timely budget request and recommendation be submitted to the Principal Chief, who shall in turn complete a budget review, identify appropriate funding resources, make necessary modifications, and submit an appropriations bill to the National Council for their review, modification and/or approval.

B. The appropriations bill shall include a detailed line item budget utilizing the following format:

OFFICE OF THE ATTORNEY GENERAL

FY-_____

A. Use of Funds

- 1. Personnel
- 2. Fringe Benefits
- 3. Travel
- 4. Equipment
- 5. Supplies
- 6. Contractual
- 7. Construction
- 8. Other
- 9. Total Direct Cost
- 10. Indirect Cost
- 11. Total Costs

B. Source of Funds

- 1. Source
- 2. Amount

C. Beginning and Ending Fiscal Year

[NCA 89-19, § 108, veto overridden Feb. 25, 1989.]

Cross References

Attorney General's Revolving Fund, see Title 37, § 2-202.
Office of the Attorney General, see Title 16, § 3-101 et seq.

Library References

Attorney General ☞6.	C.J.S. Attorney General §§ 26 to 78.
Indians ☞210, 216.	C.J.S. Indians §§ 57 to 59, 66 to 72.
Westlaw Topic Nos. 46, 209.	C.J.S. Parent and Child § 251.

§ 2-102. Law Enforcement Department

Within ninety (90) days of the beginning of the fiscal year, the Lighthorse Chief shall prepare a budget request and recommendation to be submitted to

BUDGET AND FINANCE

Title 37, § 2-103

the Principal Chief who shall in turn complete a budget review, identify appropriate funding resources, make necessary modifications and submit an “Appropriation Bill” to the National Council for their review, modification, and approval.

The appropriation bill shall include a detailed line item budget utilizing the following format:

Law Enforcement Department Budget

FY—_____

A. Use of Funds:

1. Personnel
2. Fringe Benefits
3. Travel
4. Equipment
5. Supplies
6. Contractual
7. Construction
8. Other
9. Total Direct Costs
10. Indirect Cost
11. Total Cost

B. Source of Funds

1. Source
2. Amount

C. Beginning and Ending Fiscal Year

[NCA 89-148, § 105, veto overridden Dec. 30, 1989.]

Cross References

Law Enforcement Department, see Title 16, § 4-101 et seq.

Library References

Indians ⇄216.
Westlaw Topic No. 209.
C.J.S. Indians § 59.

§ 2-103. Fire protection

The Office of the Controller shall establish a line item budget for “FIRE PROTECTION FOR THE MUSCOGEE NATION” and this shall be reflected in the annual comprehensive budget.

[NCA 92-44, § 103, approved April 1, 1992.]

Cross References

Fire protection agreements or compacts, see Title 22, § 3-101.

Library References

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

§ 2–104. Medical Travel Fund

A. The National Council hereby appropriates ten thousand dollars (\$10,000) each fiscal year from the General Taxes and Licenses Account. Said appropriation shall be incorporated into each fiscal budget as a permanent appropriation.

B. Any unexpended funds will revert back to the General Fund.

[NCA 92–74, § 103, approved May 27, 1992; amended by NCA 95–38, §§ 101, 102, approved Sept. 5, 1995.]

Cross References

Medical Travel Fund, see Title 35, §§ 3–101, 3–102.

§ 2–105. Litigation and lobbying to protect Tribal sovereignty

The Principal Chief shall prepare a budget for the use of funds to be expended from the Litigation and Lobbying Fund Account. In the event, the Principal Chief declares an emergency and needs funding to respond to state or federal action, no appropriation is hereby authorized from this account without approval from the National Council, for the protection of Tribal sovereignty.

[NCA 92–90, § 105, approved June 3, 1992; amended by NCA 95–10, § 103, approved Feb. 1, 1995.]

Cross References

Litigation and Lobbying Fund Account, see Title 37, § 2–206.

Library References

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

§ 2–106. Physical Plant Maintenance and Capital Improvements Program

A supplemental appropriation on an annual basis is hereby granted in the amount equal to the sinking fund for implementing the Annual Physical Plant Maintenance and Capital Improvements Program. The supplemental appropriation will be made based on a detailed budget submitted by the Office of the Administration, GSA/Facilities and shall be presented to the National Council for approval.

[NCA 92–109, § 104, approved July 27, 1992; amended by NCA 97–30, § 104, eff. March 31, 1997.]

Cross References

Maintenance and capital improvements sinking fund, see Title 37, § 2–207.
Physical plant maintenance and capital improvement policy, see Title 28, § 5–101.

Library References

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

§ 2–107. National Congress of American Indians; dues

The Comprehensive Budget, Office of the Principal Chief, shall contain a one thousand dollars (\$1,000) annual appropriation from Tribal funds for NCAI dues until otherwise provided by law.

[NCA 92–144, § 103, approved Nov. 25, 1992.]

Cross References

National Congress of American Indians, delegate and alternate delegates, see Title 25, § 3–101.

Library References

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

§ 2–108. Drug-free workplace

The National Council hereby authorizes the Principal Chief to include an appropriate amount in the comprehensive budget to carry out the purposes of Title 37, § 3–801 et seq.

[NCA 93–107, § 114, approved July 12, 1993.]

Library References

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

§ 2–109. Green Corn Ceremonial Assistance

The annual appropriation for the Green Corn Ceremonial Assistance shall be established by the enactment of NCA 02–082 at twenty-four thousand dollars (\$24,000.00) beginning with the FY 2003 Comprehensive Annual Budget and annually thereafter.

[NCA 02–082, § 3, approved May 30, 2002.]

Historical and Statutory Notes

Derivation:

NCA 94–16, § 105.

Cross References

Green Corn Ceremonial Assistance, see Title 5, § 2–201 et seq.

Library References

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

**Title 37, § 2-110
Repealed**

TRIBAL GOVERNMENT

§ 2-110. Repealed by NCA 09-021, § 2, approved Jan. 31, 2009

Historical and Statutory Notes

The repealed section, which related to the establishment and financing of the Travel Plaza, was derived from:
NCA 95-105, § 105.

NCA 97-84, § 103,
NCA 01-140, § 1-104.

§ 2-111. Employee Protection Commission; Recording Secretary Compensation

An appropriation of one thousand five hundred dollars (\$1,500) shall be included in the 1995 annual comprehensive budget and each year hereafter for the compensation of the Recording Secretary of the Employee Protection Commission.

[NCA 95-07, § 115, added by NCA 95-131, § 103, approved Oct. 31, 1995.]

Cross References

Employee Protection Commission, Recording Secretary, see Title 37, § 3-513.

Library References

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

§ 2-112. Repealed by NCA 04-118, § 8, approved June 30, 2004

§ 2-113. Rural volunteer fire department assistance

The Principal Chief is hereby authorized to expend forty thousand dollars (\$40,000.00) annually. Such appropriation shall be granted annually based upon the budget submitted by the Division of Tribal Affairs. No more than twenty thousand dollars (\$20,000.00) is to be used annually for new construction. No more that twenty thousand dollars (\$20,000.00) is to be used annually for fire fighting equipment. Funds for Title 22, § 3-201 et seq. shall begin being appropriated with the FY 97 comprehensive budget. Any unexpended funds at the end of the fiscal year will be returned to the Tribal Treasury.

[NCA 96-66, § 105, approved Sept. 4, 1996; amended by NCA 00-115, § 103, approved Aug. 3, 2000.]

Cross References

Rural volunteer fire departments, see Title 22, § 3-201 et seq.

Library References

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

§ 2-114. Natural disaster assistance

The Natural Disaster Act shall become a part of the Comprehensive Annual Budget and receive an annual appropriation of twenty-five thousand dollars

(\$25,000). Any funds unexpended at the end of the fiscal year shall be returned to the Treasury.

[NCA 96-68, § 103, approved Aug. 9, 1996; amended by NCA 98-81, § 103, approved Sept. 3, 1998, repealed by NCA 99-65, § 104, approved May 26, 1999; NCA 99-65, §§ 103, 105, approved May 26, 1999.]

Cross References

Natural disaster assistance, see Title 35, § 7-101.

Library References

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

§ 2-115. Eufaula Boarding School Board of Education

The Eufaula Boarding School Board of Education shall receive an annual appropriation of ten thousand dollars (\$10,000). All funds in excess of ten thousand dollars (\$10,000) shall be returned to the appropriate Tribal account.

[NCA 96-75, § 105, approved Sept. 17, 1996; amended by NCA 98-100, § 103, approved Oct. 5, 1998.]

Cross References

Eufala Boarding School, see Title 18, § 3-101 et seq.

Library References

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

§ 2-116. Tribal Emergency Home Improvement Program

The Principal Chief is hereby authorized to expend one hundred thirty-one thousand, six hundred eighty-nine dollars (\$131,689.00) from the interest on the Permanent Fund Account for the implementation of the Tribal Emergency Home Improvement Program. Funds which carry forward shall be deducted from the annual appropriation.

[NCA 96-105, § 104, approved Dec. 27, 1996.]

Cross References

Tribal Emergency Home Improvement Program, see Title 24, § 4-101.

Library References

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

§ 2-117. Medical Assistance Program

The National Council hereby authorizes an appropriation to be reflected in the Comprehensive Annual Budget entitled "Medical Assistance Act" in the amount of seventy-three thousand dollars (\$73,000.00). Of that amount, fifteen percent (15%) shall be budgeted for administrative cost to operate the program.

Title 37, § 2-117

TRIBAL GOVERNMENT

Administrative cost shall be defined as the cost associated with operating the program such as, but not limited to, personnel, fringe, supplies, printing, etc.

[NCA 97-05, § 105, approved May 8, 1997; amended by NCA 00-118, § 104, approved Aug. 3, 2000, repealed by NCA 00-130, § 104, approved Sept. 1, 2000; NCA 00-130, § 103, approved Sept. 1, 2000.]

Cross References

Medical Assistance Program, see Title 22, § 5-101 et seq.

Library References

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

§ 2-118. Comprehensive Assistance Grant Program for Churches and Ceremonial Grounds

The Principal Chief is hereby authorized to place one thousand dollars (\$1,000,000) in the Creek Nation's FY 2008 Comprehensive Annual Budget, and annually thereafter, to finance the Comprehensive Assistance Grant Program for Muscogee (Creek) Nation Traditional Churches and Ceremonial Grounds. Any unexpended funds at the end of each Fiscal Year shall be returned to the Tribal Treasury.

[NCA 97-07, § 103, approved Jan. 28, 1997; amended by NCA 98-19, § 103, approved March 6, 1998; NCA 01-160, § 1, approved Sept. 7, 2001; amended by NCA 07-203, § 5, eff. Jan. 2, 2008.]

Cross References

Churches and Ceremonial Grounds Grant Program, see Title 5, § 2-101 et seq.

Library References

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

§ 2-119. Mvskoke (Creek) Nation Pageant and Royalty

An annual appropriation of twenty-eight thousand dollars (\$28,000.00), combined with eleven percent (11%) indirect cost of three thousand eighty dollars (\$3,080.00), for a total of thirty-one thousand eighty dollars (\$31,080.00) shall be included in the Comprehensive Annual Budget for expenses associated with the Mvskoke (Creek) Nation Pageant and Royalty activities and any remaining funds shall be returned to the appropriate treasury account. Said funds will be administered in accordance with a budget prepared by the Pageant Committee. All Tribal funds unexpended at the end of each fiscal year shall be returned to the Tribal Treasury and be available for future appropriation by the National Council.

[NCA 98-91, § 103, approved Oct. 5, 1998; amended by NCA 07-195, § 1, eff. Aug. 6, 2007.]

Library References

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

§ 2–120. Senior Services Department

The National Council hereby appropriates one hundred six thousand, two hundred seventy-five dollars (\$106,275.00) and authorizes the Principal Chief to expend these funds for the Office of the Senior Services Department Manager in accordance with the revised budget to be included in the Comprehensive Annual Budget, beginning in the FY 2001 Comprehensive Annual Budget and thereafter.

[NCA 99–09, § 104, approved Feb. 3, 1999; amended by NCA 01–74, § 1, approved July 10, 2001.]

Cross References

Senior Services Department, see Title 20, § 1–101 et seq.

Library References

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

§ 2–121. Grave preparation expenses

With the approval of a budget and program guidelines by the Tribal Affairs Committee, the National Council hereby authorizes the Principal Chief to expend ten thousand dollars (\$10,000.00) for expenses related to the preparation of graves for Tribal citizens. This appropriation shall be included annually in the Comprehensive Annual Budget beginning in FY 2001 and thereafter.

[NCA 99–29, § 104, approved Aug. 3, 1999; amended by NCA 00–113, § 104, approved Aug. 3, 1999.]

Cross References

Preparation of graves, see Title 4, § 1–102.

Library References

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

§ 2–122. Tribal Energy Assistance Program

The Principal Chief is hereby authorized to include the sum of fifty thousand dollars (\$50,000) annually in the Comprehensive Annual Budget beginning in FY–2000 from a funding source to be identified by the Controller (contingent on the availability of funds).

[NCA 99–95, § 105, approved Aug. 31, 1999.]

Cross References

Tribal Energy Assistance Program, see Title 35, § 8–101 et seq.

Library References

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

§ 2–123. Este Cate Veterans (MVSKOKE Nation) Honor Guard

There will be an annual appropriation in the amount of ten thousand dollars (\$10,000.00) for the Este Cate Veterans (MVSKOKE Nation) Honor Guard. [NCA 99–161, § 103, approved Nov. 10, 1999; amended by NCA 00–117, § 103, approved Aug. 3, 2000.]

Cross References

Official Honor Guard, see Title 15, § 1–101 et seq.

Library References

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

§ 2–124. Muscogee (Creek) Nation War Memorial; replacement of flags

The Comprehensive Budget, Office of the Principal Chief, for FY 2001 and annually thereafter until otherwise provided by law, shall contain a two thousand dollars (\$2,000) annual appropriation from Tribal funds for the purchase of the annual replacement of flags for the Muscogee (Creek) Nation War Memorial.

[NCA 00–43, § 104, approved March 29, 2000.]

Library References

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

§ 2–125. Day of Prayer

The Comprehensive Budget, Office of the Principal Chief, for FY 2001 and annually thereafter until otherwise provided by law, shall contain a one thousand dollars (\$1,000.00) annual appropriation from Tribal funds for the funding of the annual Day of Prayer.

[NCA 00–55, § 103, approved March 27, 2000.]

Cross References

Day of Prayer, see Title 5, § 3–101 et seq.

Library References

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

§ 2–126. National Council Speaker; compensation

The National Council hereby authorizes an increase in the compensation paid to the Speaker of the National Council with a salary range of

\$38,646.40—\$50,460.80 per year effective FY 2001 and it shall become a part of the Comprehensive Annual Budget annually thereafter.

[NCA 00–58, § 109, approved June 30, 2000.]

Cross References

National Council compensation, see Title 30, § 4–101.

Speaker compensation, see Title 30, § 5–101.

Library References

Indians ⇄210.

Westlaw Topic No. 209.

C.J.S. Indians §§ 57 to 59, 66 to 72.

§ 2–127. Tribal Construction Engineer

The National Council hereby authorizes the Principal Chief to create the position of Tribal Construction Engineer within the Division of Tribal Affairs and include the position in the Comprehensive Annual Budget beginning with the FY 2001 Comprehensive Annual Budget and thereafter.

[NCA 00–69, § 103, approved Aug. 3, 2000.]

Library References

Indians ⇄210.

Westlaw Topic No. 209.

C.J.S. Indians §§ 57 to 59, 66 to 72.

§ 2–128. Office of National Council Speaker; technical equipment/software maintenance

A. The National Council hereby authorizes the Principal Chief to expend/release twenty-seven thousand, two hundred forty-four dollars (\$27,244.00) for the upgrading of technical equipment/software utilized by the Office of the National Council.

B. The amount of twenty-seven thousand, two hundred forty-four dollars (\$27,244.00) contains an annual maintenance cost five thousand three hundred twenty-nine dollars (\$5,329) which shall become a part of the Comprehensive Annual Budget as an annual appropriation of the Legislative Branch Budget thereafter until otherwise provided by law.

[NCA 00–80, § 104, approved May 26, 2000.]

Library References

Indians ⇄210.

Westlaw Topic No. 209.

C.J.S. Indians §§ 57 to 59, 66 to 72.

§ 2–129. Murrow Indian Children’s Home

The Principal Chief is hereby authorized to expend/release five thousand and no/100 dollars (\$5,000.00) annually to the appropriate officials of the Murrow Indian Children’s Home. This section shall be an annual appropriation beginning with FY 2001 Comprehensive Annual Budget. Beginning with the FY 2008 Comprehensive Annual Budget, the appropriation shall be increased to

Title 37, § 2–129

TRIBAL GOVERNMENT

fifty thousand and no/100 dollars (\$50,000.00) and annually thereafter. That the appropriation include per capita of one hundred twenty-five and no/100 dollars (\$125.00) per student for Christmas gifts each year.

[NCA 00–119, § 104, approved Aug. 3, 2000; amended by NCA 04–210, § 2, approved Nov. 29, 2004; NCA 06–210, § 2, approved Oct. 9, 2006; NCA 07–304, § 2, veto overridden Dec. 20, 2007.]

Library References

Indians ☞132, 210, 340.
Westlaw Topic No. 209.

C.J.S. Indians §§ 57 to 59, 66 to 72, 150, 152,
154 to 176, 193.

§ 2–130. Special Academic/Extra-Curricular Program

The National Council hereby appropriates and authorizes the Principal Chief to expend forty-five thousand dollars (\$45,000) for the Special Academic/Extra-Curricular Program for FY 2001. This appropriation shall be included annually in the Comprehensive Annual Budget thereafter, depending on the availability of funds. Any unexpended funds at the end of the fiscal year shall be returned to the Tribal Treasury.

[NCA 00–136, § 103, approved Nov. 2, 2000.]

Cross References

Special Academic/Extra-Curricular Program, see Title 18, § 1–201 et seq.

Library References

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

§ 2–131. Tribal Funds Grant and Tribal Incentive Grant Program

The National Council hereby authorizes an appropriation in the amount of fifty thousand dollars (\$50,000.00) to be reflected in the Comprehensive Annual Budget for the Tribal Funds Grant and Tribal Incentive Grant Program of the Higher Education Program within the Human Development Division of the Muscogee (Creek) Nation for financial assistance to all Tribal citizens. These funds are to be distributed equally to the programs.

[NCA 01–57, § 3, approved Oct. 9, 2001.]

Cross References

Higher education and vocational scholarships and grants, see Title 18, § 2–101 et seq.

Library References

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

§ 2–132. Post-Graduate Program

The sum of one hundred eighty-seven thousand eight hundred twenty-nine dollars and (\$187,829.00) is hereby appropriated for the implementation of Title 18, § 2–401 et seq. from the Motor Fuel Fund Account. Said funds shall be

available for expenditure through September 30, 2002, and thereafter shall become an annual appropriation to be reflected in the comprehensive annual budget commencing with Fiscal Year 2003.

[NCA 01–113, § 4, approved July 10, 2001; amended by NCA 01–139, § 4, approved Aug. 9, 2001; NCA 01–224, § 1, approved Dec. 4, 2001; NCA 01–237, § 1, approved Dec. 17, 2001.]

Cross References

Post-Graduate Program, see Title 18, § 2–401 et seq.

Library References

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

§ 2–133. Burial assistance

A. The amount of two hundred twenty-five thousand dollars (\$225,000.00) is hereby appropriated from the Bingo Revenue Fund Account for the implementation of Title 4, § 1–101. All unexpended funds appropriated by implementation of this act¹ shall be returned to the Tribal Treasury and be available for future appropriations by the National Council.

B. This act¹ shall become effective October 1, 2001 and be included in the Comprehensive Annual Budget Law thereafter.

[NCA 01–158, §§ 3 to 5, eff. Oct. 1, 2001.]

¹ NCA 01–158, codified as Title 4, § 1–101 and this section.

Library References

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

§ 2–134. Original Allottees Client Services

The Principal Chief is required to include the amount of ten thousand dollars (\$10,000.00) in a line item designated as Original Allottees Client Services within the Comprehensive Annual Budget beginning with Fiscal Year 2003.

[NCA 97–01, § 103, fourth paragraph, as added by NCA 02–043, § 3, approved April 1, 2002.]

Library References

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

§ 2–135. Muscogee (Creek) Nation Legal Services Clinic

The Muscogee (Creek) Nation Legal Services Clinic budget for the fourth quarter of FY 2002 is one-fourth (1/4) of the annual budget submitted by the University of Tulsa Boesche Legal Clinic for the operation of the Muscogee (Creek) Nation Legal Services Clinic for an entire fiscal year. The appropriation for Fiscal Year 2003 shall be from any funds available for appropriation,

Title 37, § 2–135

TRIBAL GOVERNMENT

shall be in the Comprehensive Annual Budget and is to be a line item appropriation contained in the 2003 Budget of the District Court and annually thereafter.

[NCA 02–091, § 12, approved May 30, 2002.]

Cross References

Muscogee (Creek) Nation Legal Services Clinic, see Title 35, § 10–101 et seq.

Library References

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

§ 2–136. Incarceration of prisoners in county facilities

An annual appropriation in the amount of fifty thousand dollars (\$50,000.00) shall be reflected in the budget of the Lighthorse Administration specifically to pay the cost of incarceration of the Nation’s prisoners that are housed in county facilities. The costs of incarceration may include medical treatment for the Nation’s prisoners that can not be performed at an IHS facility due to emergency circumstances and that is not covered by IHS contract health benefits, the prisoner’s insurance or other health benefits.

[NCA 01–39, § 5, approved April 5, 2001; amended by NCA 02–152, § 1, approved Oct. 30, 2002.]

Cross References

Muscogee (Creek) Nation Legal Services Clinic, see Title 35, § 10–101 et seq.

Library References

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

§ 2–137. College of the Muscogee (Creek) Nation

Beginning with Fiscal Year 2009, the annual appropriation allocated to the College of the Muscogee (Creek) Nation in the Comprehensive Annual Budget shall carry forward until fully expended.

[Added by NCA 09–134, § 2, approved Sept. 10, 2009.]

SUBCHAPTER 2. FUNDS AND ACCOUNTS

Section

- 2–201. Court Fund.
- 2–202. Attorney General’s Revolving Fund.
- 2–203. Permanent Fund.
- 2–204. Communications Department Revolving Account.
- 2–205. Medical Travel Fund.
- 2–206. Litigation and Lobbying Fund Account.
- 2–207. Maintenance and Capital Improvements Sinking Fund.
- 2–208. Economic Development Fund.

Section

- 2–209. Flag Account.
- 2–210. Farm Account.
- 2–211. Community Development Program Revolving Account.
- 2–212. Repealed.
- 2–213. Lighthorse Administration Revolving Account.
- 2–213A. Lighthorse Federal Forfeiture Revolving Fund.
- 2–214. Election Board Special Depository Account.
- 2–215. Mound Building Oversight Committee and Revolving Fund.
- 2–216. Muscogee (Creek) Nation Museum, Cultural Center and Archives Artifacts, Memorabilia and Documents Revolving Fund.
- 2–217. Real Property Escrow Fund.

§ 2–201. Court Fund

A. The Court Fund of the Muscogee (Creek) Nation is hereby established. The Controller shall insure that an adequate proportion of the Court Fund is available for immediate expenditure. and that the surplus of the Court Fund is invested in an interest bearing account.

B. The following types of income shall be deposited into the Court Fund upon their receipt by the District Court or the Supreme Court:

1. Court costs established by court order.
2. Fines collected by court order, as provided by law.
3. Transcript fees.
4. Payments for legal services.

C. The following types of expenditures shall be allowed from the Court Fund upon the approval of the District Court Judge or the Chief Justice of the Supreme Court:

1. Jury fees (not to exceed ten dollars (\$10.00) per day per juror).
2. Witness fees (not to exceed twenty cents (\$.20)) per mile per day).
3. Public Defenders (not to exceed \$100.00 (one hundred dollars) per day or \$300.00 (three hundred dollars) per client).

[NCA 81–31, §§ 105 to 107, approved Feb. 2, 1981.]

Cross References

Judicial branch, budget, finance and compensation, see Title 26, § 5–101 et seq.

§ 2–202. Attorney General’s Revolving Fund

There is hereby created in the Tribal Treasury a revolving fund for the Attorney General, to be designated to the Attorney General’s Revolving Fund. The Fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received from the sale of copies of surplus bound volumes and requested individual copies of opinions and such other monies as are provided for by law. Expenditures from said funds shall be made upon warrants issued by the Tribal Treasury against claims filed as prescribed by law with the Director of Finance for approval and payment.

[NCA 89–19, § 104, veto overridden Feb. 25, 1989.]

Cross References

Budget, Office of the Attorney General, see Title 37, § 2-101.

Opinions of Attorney General, sale of surplus bound volumes, see Title 16, § 3-107.

§ 2-203. Permanent Fund

A. The Muscogee (Creek) Nation Permanent Fund. The Permanent Fund is established to assure the availability of necessary monies to help fund the Muscogee (Creek) Nation in future years. Twenty percent (20%) of the net revenues from current Tribal gaming operations which are not restricted or reserved by subsection C of this section for contingencies or liabilities, shall be deposited in the Muscogee (Creek) Nation Permanent Fund to be invested in an interest bearing account in accordance with Title 37, § 2-717, of the Muscogee (Creek) Nation Code. The principal of the Permanent Fund shall remain intact forever, subject to the following:

1. The Muscogee (Creek) Nation may borrow funds in the Permanent Fund when such loan is expressly approved for a specific purpose by Tribal Resolution enacted by the National Council in accordance with subsection E of this section.

2. [Repealed by NCA 07-344, § 2, eff. Dec. 26, 2007].

B. Interest on Permanent Fund. The interest on the Permanent Fund shall be made available for appropriations by the National Council on a quarterly basis. The Controller shall provide the National Council with quarterly statements no later than the last day of the month following the end of a quarter that shall include the source and amount of interest earned during the previous quarter and the total amount of funds available for appropriations.

C. Contingency Reserve Account. The Muscogee (Creek) Nation Contingency Reserve Account is established, and a minimum balance of one million dollars (\$1,000,000) from Tribally owned and managed gaming operations shall be maintained in said account for potential use in the event that the Nation is determined to be liable for any fine or judgement related to Tribally owned and managed gaming operations and the National Council appropriates said funds for payment of said fines or judgements. During any disputes or litigation with any contract management firms, or in the event that determination is made by the Office of Principal Chief or the National Council as to the existence of any contingency or liability, specifically identified revenues from Tribally owned and managed gaming operations shall be, upon distribution to the Nation by the GOAB, placed into the interest bearing Contingency Reserve Account prior to any allocation to the Permanent Fund, Bingo Revenue Fund, Sinking Fund, or other allocations as established by any Muscogee (Creek) Nation law, until such contingency or liability is met or is determined to no longer exist. At such time, funds shall be removed from restriction, along with all accumulated interest income and shall be allocated as prescribed by applicable law of the Muscogee (Creek) Nation.

D. Economic Development and Land Acquisition Fund. There is hereby created an Economic Development Fund. Appropriations from this fund shall only be made pursuant to appropriation acts for the following purposes: purchase of property and any necessary incidental expenses associated with the

purchase of the property, including without limitation title opinions, title insurance, surveys and realtors' fees, the purchase of economic enterprises, and start-up costs and other expenses necessary to create and operate economic enterprises. The funding source for the Economic Development and Land Acquisition Fund shall be as follows:

1. All funds in the Sinking Fund established by the Travel Plaza Establishment and Financing Act of 1995 as of the effective date of this Act shall be deposited in the Economic Development and Land Acquisition Fund, provided that said Sinking Fund shall be eliminated immediately upon said transfer;

2. Ten percent (10%) of net revenues from Tribal gaming operations which are not restricted or reserved by subsection C of this section shall be deposited in the Economic Development and Land Acquisition Fund on a monthly basis, provided that such gaming revenues shall not be available for appropriations for expenditures in the fiscal year in which such gaming revenues were generated and deposit of funds shall be retroactive to October 1, 2005;

3. That portion of economic development revenues specified in the Muscogee (Creek) Nation Tribal Trade and Commerce Authority Act, Title 17 § 2-112, shall be deposited in the Economic Development and Land Acquisition Fund on an annual basis, provided that such revenues shall not be available for appropriations for expenditures in the fiscal year in which such gaming revenues were generated.

E. Health Services Fund. Five percent (5%) of net revenues from Tribal gaming operations which are not restricted or reserved by subsection C of this section shall be deposited in the Health Services Fund on a monthly basis, provided that such gaming revenues shall not be available for appropriations for expenditure in the fiscal year in which such gaming revenues were generated.

1. Funds deposited into the Health Services Fund shall be available for appropriation to the Muscogee (Creek) Nation Health Services Administration for the Contract Health Department to provide services exclusively to citizens of the Muscogee (Creek) Nation.

2. Deposit of funds to the Health Services Fund shall be retroactive to October 1, 2005, and shall remain in effect for an indeterminate period. The Office of the Controller shall be required to transfer funds from the Economic Development and Land Acquisition Fund to effect the provisions of this Act.

F. Security for debt. Stocks, bonds, mutual funds, cash, certificates of deposit or any other secured United States governmental securities of the "Permanent Fund" within the General Fund of the Nation may be pledged as security for any debt issuance of the Muscogee (Creek) Nation that is expressly approved by Tribal Resolution; provided that until April 1, 2009, no more than eighty percent (80%) of the total value of the Permanent Fund shall be subject to any such pledge or pledges at any time. Beginning April 2, 2009, no more than sixty percent (60%) of the total value of the Permanent Fund shall be subject to any such pledge or pledges at any time. Any such pledged security shall be separately designated as pledged for the specified debt, shall be maintained by the Nation in a separate investment account, and shall be unavailable for appropriation or expenditure for any other purposes so long as

said pledged security remains collateral for the debt or debts. When collateralization is no longer required at sixty percent (60%) then the collateralization will return to twenty-five percent (25%).

G. Capital Improvement Fund. A Capital Improvement Fund is hereby established. Appropriations from this fund shall only be made pursuant to appropriation acts for the following purposes: constructing new buildings on property owned by the Muscogee (Creek) Nation; maintenance of existing buildings and facilities on property owned by the Muscogee (Creek) Nation; and other capital improvements for facilities and property owned by the Muscogee (Creek) Nation, including necessary equipment and furnishings. Five percent (5%) of the net revenues from current Tribal gaming operations which are not restricted or reserved by subsection C of this section for contingencies or liabilities shall be deposited in the Muscogee (Creek) Nation Capital Improvement Fund to be invested in an interest bearing account.

H. Gaming Fund; appropriations. The Gaming Fund is hereby established for appropriations and expenditures for the purposes specified in the Muscogee (Creek) Nation Gaming Code, Title 21, § 12–102. In addition to funds in the Gaming Fund as of the effective date of this Act, forty percent (40%) of the net revenues from current Tribal gaming operations which are not restricted or reserved by subsection C of this section for contingencies or liabilities shall be deposited in the Gaming Fund on a quarterly basis. Such funds shall be available for appropriations for expenditures to be made in the fiscal year immediately following the year in which the gaming revenues were generated.

I. Debt Retirement Fund. The Debt Retirement Fund is hereby established in order to insure and fund a prompt retirement of all financed debts of the Muscogee (Creek) Nation, exclusive of enterprise debt that may provide for debt retirement through generated program income. Twenty percent (20%) of the net revenues from current Tribal gaming operations which are not restricted or reserved by subsection C of this section for contingencies or liabilities, shall be deposited in the Debt Retirement Fund. Deposits shall be invested in an interest bearing account in accordance with Title 37, § 2–717. All principal and interest payments due from financed debts of the Muscogee (Creek) Nation that are budgeted annually in the Comprehensive Annual Budget or authorized for payment from this Fund by Tribal Resolution, shall be made from the Debt Retirement Fund in accordance with the terms of the financing agreement. The Controller may transfer funds from the Debt Retirement Fund to the Permanent Fund, provided all financed debt of the Muscogee (Creek) Nation is satisfied, and provided further that sufficient reserves are in place for any anticipated financing.

J. Controller oversight. All expenditures from the funds established pursuant to this Act shall be subject to the oversight of the Controller of the Muscogee (Creek) Nation.

K. Net revenue. Solely for purposes of this section, with respect to any Tribal gaming operation and for any period of time, the term “net revenues” means gross gaming revenues less all amounts paid out as, or paid for, prizes; and less, without duplication (1) total gaming-related expenses and (2) all amounts of the gaming revenues required to be applied or retained by the

Tribal gaming operations for compliance with any terms related to any indebtedness of the Nation secured by a pledge of any assets or revenues of the gaming operations.

[NCA 89–135, § 102, approved Nov. 2, 1989; amended by NCA 01–140, § 1–103, approved Aug. 13, 2001; NCA 01–122, §§ 1, 2, approved Dec. 4, 2001; NCA 03–037, §§ 103, 104, eff. March 11, 2003; NCA 04–065, § 3, approved April 30, 2004; NCA 06–071, § 2, approved Aug. 9, 2006; NCA 06–233, §§ 2 and 3, eff. Nov. 6, 2006; NCA 07–344, § 2, eff. Dec. 26, 2007; NCA 08–078, approved May 16, 2008; NCA 08–166, § 1, approved Nov. 3, 2008; NCA 09–021, § 1, approved Jan. 31, 2009.]

Library References

Indians ↻210, 340.
Westlaw Topic No. 209.
C.J.S. Indians §§ 57 to 59, 66 to 72, 193.

§ 2–204. Communications Department Revolving Account

A revolving account for the Communications Department shall be established for all income earned through advertising to be deposited into the Communications Department operating budget. This revolving account is to also be used for funds the department receives for video productions and sales, desktop publishing requests, *Muscogee Nation News* subscriptions and any other funds accrued by the Department. This provision is retroactive and all funds, including interest, shall be returned to the Communications Department operating budget.

[NCA 92–46, § 102, approved July 28, 1992.]

Cross References

Advertising, Communications Department, see Title 16, § 5–101.

§ 2–205. Medical Travel Fund

There is hereby created a special fund to be called the Medical Travel Fund which shall be created for the travel of parents and their minor Creek enrollment eligible children who have special medical needs that need treatment in or out of state hospitals.

[NCA 92–74, § 103, approved May 27, 1992; amended by NCA 96–05, § 102, approved Feb. 24, 1992.]

Cross References

Budget, Medical Travel Fund, see Title 37, § 2–104.
Expenditures, Medical Travel Fund, see Title 35, § 3–102.
Findings, Medical Travel Fund, see Title 35, § 3–101.

§ 2–206. Litigation and Lobbying Fund Account

A. There is hereby created a Litigation and Lobbying Fund Account within the Treasury of the Muscogee (Creek) Nation, and this fund account shall be earmarked to pay for the cost of litigation, lobbying expense, public relations expenses, and/or other expenses associated with the protection of Tribal sovereignty against state and federal legislation.

B. 1. The temporary tax increase of two cents (\$0.02) per pack of cigarettes, sold in licensed tobacco smokeshops by the Muscogee (Creek) Nation, is to be repealed and become effective February 1, 1995.

Title 37, § 2–206

TRIBAL GOVERNMENT

2. All revenue generated from this tax shall remain in the Litigation and Lobbying Fund Account until expended by an appropriation law of the National Council.

[NCA 92–90, §§ 103, 104, approved June 3, 1992; amended by NCA 95–10, §§ 101, 102, approved Feb. 1, 1995.]

Cross References

Budget, litigation and lobbying to protect Tribal sovereignty, see Title 37, § 2–105.

§ 2–207. Maintenance and Capital Improvements Sinking Fund

The Muscogee (Creek) Nation shall establish a sinking fund and program a reserve fund in the Annual Comprehensive Budget to meet the maintenance and capital needs of the Nation. Ten percent (10%) of the revenue received from office space rental income shall be placed in the Capital Improvements Sinking Fund on an annual basis; provided that this requirement shall not be applicable to the disposition of the lease revenue from the Muskogee Office Building located in Muskogee, Oklahoma, which shall be deposited into the separate sinking fund identified as the Muskogee Office Building Sinking Funds in accordance with the requirements of NCA 01–227.

[NCA 92–109, § 103, approved July 27, 1992; amended by NCA 97–81, § 103, eff. July 30, 1997; NCA 01–228, § 1, approved Dec. 4, 2001.]

Cross References

Budget, physical plant maintenance and capital improvements program, see Title 37, § 2–106.
Physical plant maintenance and capital improvement policy, see Title 28, § 5–101.

§ 2–208. Economic Development Fund

A. The Economic Development Fund is hereby established within the Treasury of the Muscogee (Creek) Nation.

B. The amount of three hundred twenty-nine thousand, four hundred forty-seven dollars (\$329,447) is hereby appropriated from the third Three-Year Plan, Economic Development category, for fiscal years, 1990, 1991, and 1992, to be deposited by the Controller into the Economic Development Fund, which shall be an interest-earning account upon which expenditures may hereafter be authorized by appropriation by law.

C. Any interest earned on the Economic Development Fund shall be deposited by the Controller into the Economic Development Fund.

D. The Controller shall hereafter include the Economic Development Fund within all Quarterly Financial Statements.

[NCA 92–149, § 102, approved Sept. 19, 1992.]

Cross References

Economic development, see Title 17, § 1–101 et seq.

§ 2–209. Flag Account

A.¹ The Principal Chief is hereby authorized to expend the amount of three thousand two hundred dollars (\$3,200.00) from the Taxes and Licenses Account

to the Muscogee (Creek) Nation Mound Building Oversight Committee for the purpose of procuring a stock of Tribal flags, and other accessories bearing the Great Seal of the Nation and other traditional flags to offer for sale, said monies shall be placed in the Mound Building Oversight Committee Revolving Fund.

[NCA 95-114, § 107, added by NCA 98-08, § 104, approved Feb. 6, 1998; NCA 96-01, § 103, approved Jan. 29, 1996; amended by NCA 05-178, § 2, eff. Sept. 2, 2005.]

¹ So in original.

Cross References

Manufacture and sale of flag, see Title 37, § 1-102.

Library References

Indians ⇄210, 225, 226.
Westlaw Topic No. 209.

C.J.S. Indians §§ 57 to 59, 66 to 72, 140 to 149.

§ 2-210. Farm Account

There is hereby created within the Muscogee (Creek) Nation Treasury a revolving account which shall be known as the Farm Account. Income from the sale of cattle, crops, equipment and agricultural leases shall be credited to the Farm Account provided that if the Tribal Trade and Commerce Authority has assumed all agricultural duties pursuant to Title 28, Chapter 3, then all income from the farm shall go to the Tribal Trade and Commerce Authority to be utilized in accordance with Title 17, Chapter 2.

[NCA 96-41, § 104, approved July 5, 1996; amended by NCA 04-176, § 2, approved Nov. 29, 2004.]

Cross References

Farm operations, see Title 1, § 1-101.

Library References

Indians ⇄176, 210.
Westlaw Topic No. 209.
C.J.S. Indians §§ 57 to 59, 66 to 72, 109.

§ 2-211. Community Development Program Revolving Account

A. The Principal Chief or his designee is hereby authorized to establish a revolving account for the Community Development Program.

B. The revolving account shall be a continuing account not subject to fiscal year limitations and shall be under the direction of the Community Development Program and the Office of the Controller.

C. The Principal Chief is hereby authorized to appropriate six thousand dollars (\$6,000.00) from the interest on the Permanent Fund Account to establish the revolving account for the Community Development Program.

[NCA 96-52, § 103, approved July 5, 1996.]

§ 2-212. Repealed by NCA 06-050, § 3, approved March 29, 2006

§ 2-213. Lighthouse Administration Revolving Account

A. Creation of account. The Judicial Branch is hereby authorized to reimburse the Lighthouse Administration for any process service fees previously collected for such service and any process service fees collected by the Judicial Branch in the future. Such fees shall immediately be paid over to the Muscogee (Creek) Nation Controller to be deposited into a revolving fund for use by the Lighthouse Administration as appropriated by the Muscogee (Creek) National Council. Funds presently in the revolving account referred to herein shall be included in the annual budget of the Lighthouse Administration. Deposits may be made to this fund from funds derived from forfeited items.

B. Authorized use for undercover operations. The Lighthouse Administration is authorized to expend funds in this Account for undercover operations in accordance with Lighthouse Policies and Procedures. The Lighthouse Chief of Police may have up to five hundred dollars (\$500) in cash withdrawn from the account at any given time. The Lighthouse Chief of Police may withdraw additional funds for the use of undercover operations only upon written approval by the Attorney General.

C. Accountability. The use of funds from the Undercover Operations Fund shall be documented in accordance with Lighthouse Policies and procedures and a monthly report of the expenditure and receipt of funds shall be made to the Muscogee (Creek) Nation Office of the Controller and to the Prosecutor. The monthly report submitted to the Controller shall include the date and amount of the transaction but shall not contain identifying information of confidential informants or uncharged defendants.

[NCA 98-103, § 103, approved Oct. 5, 1998; amended by NCA 05-226, § 3, approved Sept. 30, 2005.]

Cross References

Process service fees, see Title 26, § 5-106.

Library References

Indians ⇄210, 401.
Westlaw Topic No. 209.

C.J.S. Indians §§ 57 to 59, 66 to 72, 151 to 179.

§ 2-213A. Lighthouse Federal Forfeiture Revolving Fund

There is hereby created a Lighthouse Federal Forfeiture Revolving Fund for use by the Lighthouse Police Department. Funds received from asset sharing of federal law enforcement forfeitures shall be deposited in this Fund and shall be available for use by the Lighthouse Police Department.

[Added by NCA 08-167, § 2, approved Nov. 3, 2008.]

§ 2-214. Election Board Special Depository Account

A special depository account, to be designated "Muscogee (Creek) Nation Election Board Special Depository Account," shall be used for receipt and disbursement of monies received by the Election Board for filing fees only. The

special depository account shall be a continuing fund not subject to fiscal year limitations, shall be under the administrative direction of the Election Board, and shall be under the fiscal control of the Controller of the Muscogee (Creek) Nation.

[NCA 99–20, § 3–104, approved April 30, 1999.]

Cross References

Candidacy filing fees, see Title 19, § 5–108.

Contest of candidacy, filing fee, see Title 19, § 5–204.

Contest of election for fraud or irregularities, filing fee, see Title 19, § 8–209.

Costs paid by Election Board, see Title 19, § 3–103.

Disposition of candidacy contest deposits, see Title 19, § 5–211.

Expenses of recount, see Title 19, § 8–208.

Recount filing fees, see Title 19, § 8–202.

§ 2–215. Mound Building Oversight Committee and Revolving Fund

A. Purpose. The purpose of this section is to create the Muscogee (Creek) Nation Mound Building Oversight Committee composed of representatives of each Constitutional body occupying the building. The Muscogee (Creek) Nation Mound Building Oversight Committee will be committed to providing cultural development, maintenance and improvement to the Mound Building, and shall be responsible for the selling of the Tribal flag, and other accessories bearing the Great Seal of the Nation and other traditional flags.

B. Creation. There is hereby created the Muscogee (Creek) Nation Mound Building Oversight Committee. The Muscogee (Creek) Nation Mound Building Oversight Committee shall consist of the Speaker of the National Council or designee and one member from each of the National Council Standing Committees, Chief Justice of the Supreme Court and District Judge. The Committee shall select a Chairman and record minutes of all meetings.

C. Contractual. The Muscogee (Creek) Nation Mound Building Oversight Committee shall negotiate and contract if necessary, for the cultural development, maintenance and improvement of the Mound Building, and the manufacture of the Tribal flag, and other accessories bearing the Great Seal of the Nation and other traditional flags.

D. Accountability. The Muscogee (Creek) Nation Mound Building Oversight Committee shall prove an accounting of the Committee's activity on a quarterly basis to the full National Council. The Muscogee (Creek) Nation Controller shall assist the Committee on an as needed basis.

E. Appropriation. The sum of one thousand forty-six, four hundred and no/100 dollars (\$146,000.00) is hereby appropriated from the Bingo Revenue Fund Account for the implementation of this Act. There is hereby created the Muscogee (Creek) Nation Mound Building Oversight Committee Revolving Fund. This revolving fund shall be held by the Controller and expended only upon the approval of the Chairman of the Committee. The Revolving Fund shall not be subject to any fiscal year limitations and can only be closed by an Act of the National Council.

F. Authorization. The National Council hereby authorizes the Muscogee (Creek) Nation Mound Building Oversight Committee to expend monies from

the Revolving Fund in accordance with the standard procurement and purchasing procedures of the Muscogee (Creek) Nation. The Committee is authorized to accept gifts of artifacts and money, make sales of authorized art prints, Tribal flags and other accessories bearing the Great Seal of the Nation and other traditional flags, apply for grants from any source, and deposit monies from such activities into the Revolving Fund. All funds deposited into the Revolving Fund from acceptance of gifts, donations, contributions or sales, are hereby appropriated and will be made available to the Muscogee (Creek) Nation Mound Building Oversight Committee for expenditure by the Office of the Controller without fiscal year limitations.

[NCA 03–147, §§ 3–8, veto overridden August 26, 2003; amended by NCA 05–178, § 3, eff. Sept. 2, 2005.]

Library References

Indians ⇄ 144, 210, 215.
Westlaw Topic No. 209.

C.J.S. Indians §§ 46 to 50, 53, 57 to 59, 66 to 72.

§ 2–216. Muscogee (Creek) Nation Museum, Cultural Center and Archives Artifacts, Memorabilia and Documents Revolving Fund

A. There is hereby created the Muscogee (Creek) Nation Museum, Cultural Center and Archives Artifacts, Memorabilia and Documents Revolving Fund.

B. All acquisitions from this revolving fund shall require approval by a majority vote of all Muscogee (Creek) Nation Museum, Cultural Center and Archives Oversight Committee members.

[Added by NCA 08–120, § 3, approved Sept. 2, 2008.]

§ 2–217. Real Property Escrow Fund

There is hereby created in the Office of the Treasury a Real Property Escrow Fund for the Division of Tribal Affairs. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of monies appropriated by the Nation to this fund. Expenditures from said fund shall be made upon the Principal Chief on behalf of the Muscogee (Creek) Nation entering into a Conditional Real Estate Contract and forwarding said Contract to the Controller for processing of the escrow payment only. The Principal Chief shall forward the final Real Estate Contract to the National Council for approval by way of Tribal Resolution. After closing or if no purchase is consummated, the monies held in escrow shall be returned to the Real Property Escrow Fund.

[Added by NCA 08–127, § 5, approved Nov. 3, 2008.]

Historical and Statutory Notes

NCA 08–127, §§ 1 and 2, provide:

“Section One. Findings. The National Council finds that:

“Many times the Nation loses out on property due to the process required for acquiring real property. The establishment of a Real Property Escrow Fund would enable the Nation to put

down earnest money which will solidify the Nation’s intent to purchase property from potential sellers while continuing with the Executive and Legislative process.

“Section Two. Purpose. The purpose of this Act is to appropriate the funds necessary to establish a Real Property Escrow Fund.”

SUBCHAPTER 3. ADVANCEMENT OF FUNDS
BY BUREAU OF INDIAN AFFAIRS

Section

- 2-301. Requesting the Bureau of Indian Affairs to advance funds.
- 2-302. Controller's authority to request funds.
- 2-303. Supplemental requests.
- 2-304. Expenditure of funds by Controller.
- 2-305. Auditing of funds received.
- 2-306. Monthly report on funds expended.

§ 2-301. Requesting the Bureau of Indian Affairs to advance funds

The Muscogee (Creek) Nation hereby requests the U.S. Bureau of Indian Affairs to advance, each quarter, funds requested by the Controller of the Muscogee (Creek) Nation.

[NCA 81-52, § 101, approved April 2, 1981.]

Library References

Indians ☞ 117, 139.
Westlaw Topic No. 209.
C.J.S. Indians §§ 6 to 7, 54 to 55.

§ 2-302. Controller's authority to request funds

The Controller of the Muscogee (Creek) Nation is vested with the authority to make requests to the Bureau of Indian Affairs for Tribal funds.

[NCA 81-52, § 102, approved April 2, 1981.]

§ 2-303. Supplemental requests

Supplemental request may be made by the Controller when unusually large expenditures are necessary.

[NCA 81-52, § 103, approved April 2, 1981.]

§ 2-304. Expenditure of funds by Controller

Funds received by the Muscogee (Creek) Nation under this subchapter shall be expended by the Controller pursuant to the requirements of the Controller law (Title 37, § 2-701 et seq.).

[NCA 81-52, § 104, approved April 2, 1981.]

§ 2-305. Auditing of funds received

Funds received by the Muscogee (Creek) Nation under this subchapter shall be audited by the Controller on an annual basis according to the same principles and standards utilized to audit other funds owed to, belonging to or owned by the Muscogee (Creek) Nation.

[NCA 81-52, § 105, approved April 2, 1981.]

§ 2-306. Monthly report on funds expended

The Controller shall prepare a monthly report on funds expended, and shall submit the report to:

Title 37, § 2-306

TRIBAL GOVERNMENT

- A. The Muscogee (Creek) National Council;
- B. The Principal Chief of the Muscogee (Creek) Nation;
- C. Okmulgee Agency, U.S. Bureau of Indian Affairs for the use of the Bureau.

[NCA 81-52, § 106, approved April 2, 1981.]

SUBCHAPTER 4. TRIBAL JUDGMENT FUNDS

Part

- I. Expenditure, Generally
- II. Three-Year Plans

Code of Federal Regulations

Use or distribution of Indian judgment funds, see 25 CFR 87.1 et seq.

PART I. EXPENDITURE, GENERALLY

Section

- 2-401. Prohibition of expenditure.
- 2-402. Interest.

Historical and Statutory Notes

NCA 90-60, §§ 101 and 104, provide:
 “§ 101. Findings:
 “A. In 1985 the BIA held approximately eighteen million dollars (\$18,000, 000) of Muscogee (Creek) Nation Judgment Funds.
 “B. As of this date the BIA holds less than eleven million dollars (\$11,000, 000) of Muscogee (Creek) Nation Judgment Funds.
 “C. If the Principal Chief continues to propose spending and the National Council contin-

ues to approve of those proposals all Judgment Funds shall be expended in the near future.”
 “§ 104. Repeal.
 “All titles, chapters, articles, and sections of Tribal Ordinances and Tribal Policies which are in effect as of the date of this Act, and all other laws and parts of laws which are inconsistent with the provisions of this Act are hereby repealed.”

§ 2-401. Prohibition of expenditure

Beginning October 1, 1990 (FY 1991) no further Judgment Funds shall be expended.

[NCA 90-64, § 102, passed June 30, 1990 (unsigned).]

§ 2-402. Interest

Interest from Judgment Funds shall be expended for operation of the Muscogee (Creek) Nation Tribal Government as provided by law.

[NCA 90-64, § 103, passed June 30, 1990 (unsigned).]

PART II. THREE-YEAR PLANS

Section

- 2-451. Principal amounts to be invested.
- 2-452. Expenditure of interest.

Section

- 2-453. Public hearings.
- 2-454. Adoption of law.
- 2-455. Authorization of expenditures.
- 2-456. Funds not expended.
- 2-457. Jurisdiction over controversies.
- 2-458. Domestic assistance program matching funds.
- 2-459. Future principal amounts.
- 2-460. Distribution of Judgment Funds Act inapplicable.

§ 2-451. Principal amounts to be invested

The following principal amounts of tribal judgment funds of the Muscogee (Creek) Nation of Indians in Oklahoma shall be invested by the United States in interest-bearing accounts until otherwise provided by law; no expenditures shall be allowed from these principal amounts:

- Docket 169 \$894,899.00
- Docket 272 \$6,946,585.00
- Docket 277 \$1,170,000.00 (more or less)
- Docket 309-74 \$92,288.10

[NCA 82-11, § 1, approved Feb. 2, 1982.]

§ 2-452. Expenditure of interest

All interest accruing to the principal and interest accounts of the Muscogee (Creek) Nation in Dockets 169, 272, 277 and 309-74 from October 1, 1983, through September 30, 1986, and each three (3) year period thereafter, shall be set aside for expenditure through an approved Three-Year Plan. Interest earned on funds programmed for a Three-Year Plan prior to their release to the Muscogee (Creek) Nation shall become a part of the succeeding Three-Year Plan. Interest earned by the Nation on funds released under a Three-Year Plan shall be expended as part of that Three-Year Plan.

[NCA 82-11, § 102, §§ 2, 4, approved Feb. 2, 1982; amended NCA 92-86, § 103, approved July 2, 1992.]

§ 2-453. Public hearings

On or before June 1, 1986, and every third year thereafter, the Muscogee (Creek) Nation shall hold a Public Hearing to present a proposed Three-Year Plan for discussion and comment by Muscogee (Creek) Indians.

[NCA 82-11, § 5, approved Feb. 2, 1982; amended NCA 92-86, § 104, approved July 2, 1992.]

§ 2-454. Adoption of law

On or before July 1, 1986 and every third year thereafter, the Muscogee (Creek) Nation shall adopt a law proposing a Three-Year Plan for funds available under Title 37, § 2-452. The law shall be submitted to the Okmulgee Agency for the U.S. Bureau of Indian Affairs. The Secretary of the Interior or his authorized representative shall have thirty (30) days to either approve the plan or to reject the plan because it is contrary to federal law: if no action is taken within thirty (30) days, the Plan shall be considered approved. The

Muscogee (Creek) Nation shall have thirty (30) days to amend the Plan to meet any requirements of federal law specified by the Secretary or his authorized representative.

[NCA 82-11, § 6, approved Feb. 2, 1982; amended NCA 85-33, § 102, approved July 2, 1985; NCA 85-58, § 102, approved Oct. 1, 1985; NCA 86-14, § 102, passed March 29, 1986 (unsigned); NCA 86-15, § 102, passed March 29, 1986 (unsigned); NCA 92-86, § 105, approved July 2, 1992.]

§ 2-455. Authorization of expenditures

All expenditures under any Three-Year Plan must be appropriated and authorized by a law of the Muscogee (Creek) Nation, and shall be made in strict compliance with that law, this part, and the Three-Year Plan then in effect.

[NCA 82-11, § 7, approved Feb. 2, 1982.]

§ 2-456. Funds not expended

Funds not expended in any fiscal year may be carried forward to any remaining year of a Three-Year Plan. Funds not expended under a Three-Year Plan may be carried forward to the next Three-Year Plan.

[NCA 82-11, § 8, approved Feb. 2, 1982.]

§ 2-457. Jurisdiction over controversies

All controversies arising under, pursuant to, or in conflict with any Three-Year Plan, or any law of the Muscogee (Creek) Nation implementing a Three-Year Plan, are subject to the original and exclusive jurisdiction of the Courts of the Muscogee (Creek) Nation.

[NCA 82-11, § 9, approved Feb. 2, 1982.]

§ 2-458. Domestic assistance program matching funds

Expenditures under any Three-Year Plan may be utilized as matching funds for federal domestic assistance programs.

[NCA 82-11, § 10, approved Feb. 2, 1982.]

§ 2-459. Future principal amounts

All future principal amounts of Judgment Funds of the Muscogee (Creek) Nation shall be invested under the authority of Title 37, § 2-451.

[NCA 82-11, § 11, approved Feb. 2, 1982.]

§ 2-460. Distribution of Judgment Funds Act inapplicable

The Distribution of Judgment Funds Act of 1973 (Pub. Law 93-134; 87 Stat., 466; 25 U.S.C. §§ 1401-1406) shall not apply to the funds of the Muscogee (Creek) Nation, except the tax exemption provisions of 25 U.S.C. § 1407.

[NCA 82-11, § 12, approved Feb. 2, 1982.]

SUBCHAPTER 5. APPLICATIONS FOR FINANCIAL ASSISTANCE

Section

- 2-501. Submission of applications; authorization.
 2-502. Copies of law authorized to accompany applications for financial assistance.
 2-503. Review of sources of funding; development and submission of applications.
 2-504. Approval of National Council.

Historical and Statutory Notes

NCA 92-64, §§ 101, 102, provide:

“§ 101. Findings:

“The Muscogee National Council finds that:

“A. The Muscogee Nation is eligible to receive federal funding in a number of program categories authorized by the U.S. Congress.

“B. The Muscogee Nation may be eligible to receive funding from private foundations.

“C. The Muscogee National Council has the power to legislate on such matters and is responsible for promoting the public health and safety, education and welfare that may contribute to the social, physical well-being and economic advancement of citizens of the Muscogee Nation.

“D. It would be in the best interest of the Muscogee Nation to submit Applications and proposals to various funding sources for the provision of social and economic services to Creek Citizens and to support tribal government activities.

“§ 102. Purpose.

“The purpose of this act is to authorize the Executive Branch to submit applications and proposals to various federal and private funding sources to achieve short-range and long-range tribal goals and objectives.”

NCA 91-03, §§ 100, 102, provide:

“§ 100. Findings: The National Council finds that:

“A. There is a need for legislation authorizing offices and departments within the Execu-

tive Branch to pursue additional sources of financial assistance.

“B. Financial assistance is necessary to develop and maintain provision of tribal programs and services, to stimulate economic development, to strengthen tribal government and other development purposes.

“C. Funding to support delivery of tribal programs and services is derived from an assortment of organizations including local, state and federal governments and other philanthropy organizations and foundations.

“D. As part of the application process, a funding source may require an ‘Authorizing Ordinance’ from an applicable governing body indicating support of the proposed project.

“E. Funding agency request for proposals often minimizes preparation time of proposals, allowing inadequate time to obtain an ‘Authorization’ prior to submission of deadlines.

“F. Funding sources often require applicants provide ‘In-Kind’ or ‘Matching Funds’ as part of the proposed projects budget plans.

“§ 102. Purpose

“The purpose of this ordinance is to authorize:

“(1) The Executive Branch to pursue financial assistance for program development purposes.

“(2) The preparation and submission of applications for financial assistance.”

Cross References

Children and Family Services Administration, contracts and cooperative agreements, see Title 6, § 1-202.

§ 2-501. Submission of applications; authorization

The Executive Branch of the Muscogee (Creek) Nation is hereby authorized to submit applications and proposals to various federal and private funding sources to achieve short-range and long-range Tribal goals and objectives.

[NCA 92-64, § 103, approved April 30, 1992.]

§ 2-502. Copies of law authorized to accompany applications for financial assistance

A. NCA 91-03 shall serve as authorizing legislation for purposes of submission of applications for financial assistance.

Title 37, § 2-502

TRIBAL GOVERNMENT

B. Copies and/or other reproductions of NCA 91-03 are authorized to accompany applications for financial assistance, proposals, and other requests for funding to promote and advance the physical, social and economic well-being of Indian people and to strengthen the governance of the Muscogee (Creek) Nation.

[NCA 91-03, §§ 103, 104, approved April 3, 1991.]

§ 2-503. Review of sources of funding; development and submission of applications

The Executive Branch is authorized to review available sources of funding, develop and submit applications for funding to carry out subsection B of Title 37, § 2-502.

[NCA 91-03, § 105, approved April 3, 1991.]

§ 2-504. Approval of National Council

A. Completed proposals will be submitted to the National Council for approval prior to the submission of the grant proposal.

B. The Executive Branch is hereby directed to submit a copy of any and all applications and proposals to the National Council for their record, including budget documents.

C. The Executive Branch is hereby directed to submit a copy of any and all grant or contract awards to the National Council for their record.

D. The Executive Branch is hereby directed to include any and all grant or contract awards into the Comprehensive Tribal Budget.

E. The Executive Branch is hereby directed to include any and all grant or contract awards into the provisions of the annual audit.

F. The National Council reserves the right to reject any and/or all grant or contract awards that do not conform to the short-range or long-range goals and objectives of the Muscogee (Creek) Nation.

[NCA 91-03, § 106, approved April 3, 1991; NCA 92-64, § 104, approved April 30, 1992.]

SUBCHAPTER 6. AUDIT LAW

Section

- 2-601. Official title of law.
- 2-602. Definitions.
- 2-603. Frequency of audits.
- 2-604. Standards; qualifications of accountants.
- 2-605. Expenses.
- 2-606. Audit report contents.
- 2-607. Audit reports; time for completion and distribution.
- 2-608. Examination of reports; deficiencies.
- 2-609. False statements in reports; false information to auditors.
- 2-610. Tribal accounting systems and procedures.

Cross References

Law Enforcement Department, contracts with federal or state agencies, annual audit, see Title 16, § 4-205.

§ 2-601. Official title of law

This chapter shall be cited as the Muscogee (Creek) Nation Audit Law.

[NCA 88-72, § 102, veto overridden Oct. 29, 1988.]

§ 2-602. Definitions

A. The term “auditor” as used in this chapter means a person or partnership, or corporation who makes an audit and prepares a report thereon as provided by law of the Muscogee (Creek) Nation.

B. The term “Muscogee (Creek) Nation” as used herein shall include any agency, department, program, enterprise, authority, or any other legal entity under the jurisdiction of the Muscogee (Creek) Nation.

[NCA 88-72, § 104, veto overridden Oct. 29, 1988.]

§ 2-603. Frequency of audits

The Muscogee (Creek) Nation shall provide for and cause to be made an annual audit of the financial affairs and transactions of each fund under the control of the Nation for each fiscal year. Provided, all federal and state funds shall be audited in compliance with contract or grant agreements. Such audits shall be made at the end of the fiscal year; provided, however, the National Council may require that audits be made at more frequent intervals.

[NCA 88-72, § 105, veto overridden Oct. 29, 1988.]

§ 2-604. Standards; qualifications of accountants

The audit of each fund shall be made in accordance with generally accepted audit standards as defended by the American Institute of Certified Public Accountants. Provided, such accountant shall make an application for approval by the Council for the ensuing year on or before the first day of March for each calendar year. Each accountant shall satisfy the National Council that such accountants are licensed by a State Board of Accountants, as a Certified Public Accountant, before being placed on the list of approved auditors.

[NCA 88-72, § 106, veto overridden Oct. 29, 1988.]

§ 2-605. Expenses

The expenses of audits shall be paid by the Nation.

[NCA 88-72, § 107, veto overridden Oct. 29, 1988.]

§ 2-606. Audit report contents

Each report on audit of funds under control of the Nation shall comply with the Single Audit Act of 1984.¹

[NCA 88-72, § 108, veto overridden Oct. 29, 1988.]

¹ 31 U.S.C.A. § 7501 et seq.

§ 2-607. Audit reports; time for completion and distribution

A. Each audit required by this Act shall be completed and the audit report thereon shall be submitted by the auditor to the National Council within twelve (12) months after the close of the fiscal year of the Nation.

B. The audit reports, a time for completion, and distribution shall be made according to the Single Audit Act of 1984.¹

[NCA 88-72, § 109, veto overridden Oct. 29, 1988.]

¹ 31 U.S.C.A. § 7501 et seq.

§ 2-608. Examination of reports; deficiencies

The National Council shall examine all reports submitted to it and shall determine whether said reports, comply with the provisions of this chapter. If the National Council finds they have not been complied with, the National Council shall notify the Principal Chief and the auditor who submitted said report by submitting to them a statement of deficiencies. If the deficiencies are not corrected within ninety (90) day time frame from the date of the statement of deficiencies, the National Council shall require another audit to be made in the manner provided in this chapter.

[NCA 88-72, § 110, veto overridden Oct. 29, 1988.]

§ 2-609. False statements in reports; false information to auditors

A. In any case where an accountant has knowingly issued an audit report, required under provisions of this article, containing any false or misleading statements, the National Council shall report such violation in writing to the Judicial Branch and in the case of Certified Public Accountants, to the Oklahoma State Board of Accountancy. The National Council shall revoke their rights to perform such audits in the future.

B. Any employee who knowingly or willfully furnishes to the auditors or to employees any false or fraudulent information shall be deemed guilty of malfeasance, and upon conviction, the courts shall enter judgment that such person so convicted shall be removed from office or employment from the Nation, with the exception of the Principal Chief, who is subject to impeachment.

[NCA 88-72, § 111, veto overridden Oct. 29, 1988.]

§ 2-610. Tribal accounting systems and procedures

All accounting systems and procedures used by the Nation shall conform to general accounting systems and procedures for governments.

[NCA 88-72, § 112, veto overridden Oct. 29, 1988.]

SUBCHAPTER 7. CONTROLLER

Section

2-701. Declaration of policy.

2-702. Establishment of office.

2-703. Nomination and confirmation.

Section

- 2-704. Vacancies.
- 2-705. Reports.
- 2-706. Bonding; jurisdiction over actions for breach of fiduciary duties.
- 2-707. Removal.
- 2-708. Regulations.
- 2-709. Financial statements.
- 2-710. Enforcement of access to records.
- 2-711. Disbursement of funds; collection of debts and obligations.
- 2-712. Conversion, misappropriation, etc.
- 2-713. Payment of vouchers.
- 2-714. Sovereign immunity.
- 2-715. Audits.
- 2-716. Jurisdiction.
- 2-717. Contracting and signature authority; wire transfers; establishment of accounts.
- 2-718. Cash receipts and petty cash management.
- 2-719. Salary.

§ 2-701. Declaration of policy

It is the policy of the Muscogee (Creek) Nation to administer funds according to strict accounting standards, and to administer those funds through an executive officer, the Controller, accountable to the Principal Chief and to the National Council.

[NCA 88-70, § 103, approved Oct. 18, 1988.]

Cross References

Funds advanced by Bureau of Indian Affairs, expenditure by Controller, see Title 37, § 2-304.

§ 2-702. Establishment of office

The Tribal Office of Controller is hereby created and established as an authority with attendant powers subordinate to the Principal Chief and the National Council under the terms of this subchapter.

[NCA 88-70, § 104, approved Oct. 18, 1988.]

§ 2-703. Nomination and confirmation

A. Nominations for the Office of the Controller shall be made by the Principal Chief and confirmed by the National Council under the terms of this subchapter.

B. The Controller shall have no previous felony convictions.

[NCA 88-70, § 105, approved Oct. 18, 1988; amended by NCA 95-78, § 103, approved July 21, 1995.]

Cross References

Juvenile adjudication not to disqualify from employment or office, see Title 6, § 1-404.

§ 2-704. Vacancies

All vacancies for the Office of the Controller shall be filled by commissions granted by the Principal Chief which shall expire at the end of the next meeting of the National Council and if not confirmed, the person shall not be recommis-

Title 37, § 2-704

TRIBAL GOVERNMENT

sioned. An Acting Controller may be appointed for not more than sixty (60) days.

[NCA 88-70, § 107, approved Oct. 18, 1988.]

§ 2-705. Reports

The Controller shall report regularly to the Principal Chief, keeping the Principal Chief and the Executive Director advised fully of all financial matters, and shall report to the National Council for all financial matters, and shall report to the National Council at the Quarterly meetings to advise them fully of all financial matters and answers all questions on that subject.

[NCA 88-70, § 108, approved Oct. 18, 1988.]

§ 2-706. Bonding; jurisdiction over actions for breach of fiduciary duties

The Controller and any person designated by the Controller to have purchasing or check-writing authority pursuant to Title 37, § 2-717 shall be bonded in an amount of not less than fifty thousand dollars (\$50,000). The courts of the Muscogee (Creek) Nation shall have jurisdiction over any action brought by or on behalf of the Nation against the Controller or any such person designated by the Controller pursuant to Title 37, § 2-717 for breach of his or her fiduciary duties in administering the funds of the Muscogee (Creek) Nation.

[NCA 88-70, § 109, approved Oct. 18, 1988; amended by NCA 99-76, § 104, approved July 1, 1999.]

§ 2-707. Removal

The Controller shall be subject to removal by law for the following but not limited to causes as defined in NCA 81-03, § 2001.¹

- A. Violation of the oath of office.
- B. Conviction, in Tribal Court, of any felony under Tribal law.
- C. Conviction, in federal court, of any felony under federal law.
- D. Conviction, in Tribal Court, of any crime of corruption of a Tribal office.
- E. Excessive absence from duties of office.

[NCA 88-70, § 110, approved Oct. 18, 1988.]

¹ Superseded by NCA 89-75. See Title 31, § 1-104.

§ 2-708. Regulations

The Controller shall submit his regulations for the administration of funds in control of, belonging to or owed to the Muscogee (Creek) Nation, for the approval of the National Council, by December 17, 1988.

[NCA 88-70, § 111, approved Oct. 18, 1988.]

§ 2-709. Financial statements

The Controller shall prepare quarterly financial statements which disclose receipts, encumbered, expended, unencumbered and cash balance, contract funds for all funds under the control of the Muscogee (Creek) Nation. This

report shall be published each fiscal quarter in the *Muscogee Nation News* with a narrative explaining the financial statement.

[NCA 88-70, § 112, approved Oct. 18, 1988; amended by NCA 89-37, § 102, approved April 6, 1989.]

§ 2-710. Enforcement of access to records

The enforcement of the constitutional rights of access to records of Tribal funds by Tribal citizens is delegated to the Controller and his enforcement of that constitutional right is declared justiciable in the courts of this section¹.

[NCA 88-70, § 113, approved Oct. 18, 1988.]

¹ So in original.

§ 2-711. Disbursement of funds; collection of debts and obligations

The Controller shall be responsible for assuring the proper disbursement of funds in the control of, or belonging to, the Muscogee (Creek) Nation and for the prompt and timely collection of debts and obligations owed to the Muscogee (Creek) Nation. In order to carry out the responsibilities assigned to the Office of the Controller under the provisions of this subchapter, the Controller shall be and hereby is vested with all of the power and authority set forth in Title 37, § 2-717.

[NCA 88-70, § 114, approved Oct. 18, 1988; amended by NCA 99-76, § 103, approved July 1, 1999.]

§ 2-712. Conversion, misappropriation, etc.

Upon his discovery of any indication of conversion of funds, misappropriation of funds, improper expenditure, unallowable costs, maladministration of funds, the Controller shall:

A. Sue for the recovery of the funds in any court of this Nation or any other courts having jurisdiction over the person implicated by probable cause, or

B. Report directly to the Principal Chief and the Speaker of the Muscogee (Creek) National Council upon the nature of the financial matter and his recommendations; and/or

C. Notify appropriate authorities as required by law.

[NCA 88-70, § 115, approved Oct. 18, 1988.]

§ 2-713. Payment of vouchers

Upon funds appropriated by laws of the Creek Nation, the Controller shall pay the vouchers presented him by the Principal Chief, the Speaker of the National Council or the Justice of the Supreme Court for their respective branches of Government in accordance with Section 108¹ above.

[NCA 88-70, § 116, approved Oct. 18, 1988.]

¹ So in original. NCA 88-70, § 108 (Title 37, § 2-705) does not appear to be applicable.

§ 2-714. Sovereign immunity

The sovereign immunity of the Muscogee (Creek) Nation is not waived by this subchapter, cannot be waived by an officer under this subchapter, and shall be

Title 37, § 2-714

TRIBAL GOVERNMENT

respected by the Controller at all times. The Controller shall advise the National Council of the Muscogee (Creek) Nation of all known claims against the sovereign immunity of the Muscogee (Creek) Nation, and upon adoption of an law as a specific waiver of such Tribal immunity, shall pay the same in the amount direct by the law, or as provided by law.

[NCA 88-70, § 117, approved Oct. 18, 1988.]

United States Code Annotated

Sovereign immunity unaffected by Indian Self-Determination and Education Assistance Act, see 25 U.S.C.A. § 450n.

§ 2-715. Audits

The Controller shall engage independent audits as required by contract or by Tribal Resolution with the approval of the National Council and not less than once yearly, and shall present the audit reports to the Principal Chief, National Council, and thereafter publish a notice of availability for public inspection in the *Muscogee Nation News*.

[NCA 88-70, § 118, approved Oct. 18, 1988.]

§ 2-716. Jurisdiction

This subchapter and all circumstances and events arising under, pursuant to or in conflict with this subchapter are declared within the exclusive jurisdiction of the courts of the Muscogee (Creek) Nation.

[NCA 88-70, § 119, approved Oct. 18, 1988.]

§ 2-717. Contracting and signature authority; wire transfers; establishment of accounts

A. The Controller and any person(s) designated by the Controller in writing shall have the authority to contract for, purchase and/or issue and approve purchase requisitions, purchase orders and authorizations for payment for any and all goods and services for all programs, offices, divisions, departments and agencies of the Muscogee (Creek) Nation. Provided, however, any such contracts, purchases, purchase orders and authorizations for payment in excess of one hundred thousand dollars (\$100,000) must be approved in writing by the Principal Chief or by Tribal Resolution of the National Council. The Principal Chief's approval authority may be delegated by him in writing to the Executive Director or other officer of the Nation in the event the Principal Chief is absent or unavailable and therefore unable to give such written approval, provided that the delegation shall be limited to the duration of such absence or unavailability. All purchases of goods and/or services must be made in accordance with an approved budget and an appropriation by the National Council.

B. Notwithstanding any other provision of law heretofore enacted by the National Council, the Controller shall have the authority to sign or endorse any check, draft or other written instrument of payment drawn on any account of the Muscogee (Creek) Nation, provided that any such instrument shall be in payment of a valid obligation or commitment of the Muscogee (Creek) Nation made and authorized under appropriation and in accordance with the law.

Provided, further, that any such instrument in excess of fifty thousand dollars (\$50,000) shall also be signed by the Principal Chief or if the Principal Chief be absent or unavailable, then by an officer of the Muscogee (Creek) Nation designated in writing for such purpose by the Principal Chief for the duration of such absence or unavailability.

C. The Controller may delegate in writing to one or more persons employed within the Office of the Controller his authority to sign or endorse checks, drafts or other instruments of payment, provided that the check, draft or other instrument is not in excess of five thousand dollars (\$5,000) or any lesser amount specified in the written delegation. In the event of his absence or unavailability, the Controller may, for the duration of such absence or unavailability, delegate in writing his signature authority under subsection B of this section to the Second Chief or to the Executive Director, provided that any instrument of payment in excess of fifty thousand dollars (\$50,000) shall also be signed by the Principal Chief, or if the Principal Chief is also absent or unavailable, then by an officer of the Nation designated in writing for such purpose by the Principal Chief for the duration of the Principal Chief's absence or unavailability.

D. In furtherance of his or her duties to properly administer and protect the funds of the Muscogee (Creek) Nation, and always in compliance with the laws of the Nation and applicable federal laws and regulations, the Controller shall have the authority to order or direct the wire transfer of any amount of funds from any account or accounts of the Muscogee (Creek) Nation without requirement of second signature or prior approval of any other official of the Nation. In accordance with the Nation's duly adopted Indian Housing Plans, and in compliance with the provisions of NAHASDA¹ or other applicable federal laws and regulations regarding the administration of Indian Housing Block Grant funds, the Controller shall also have the authority to order or direct the wire transfer of Indian Housing Block Grant funds or any other HUD funds held in any account or accounts of the Muscogee (Creek) Nation and/or to the appropriate account or accounts of the Housing Authority of the Creek Nation of Oklahoma, Inc. Provided, however, with respect to wire transfers to accounts of the Housing Authority of the Creek Nation of Oklahoma, Inc., any single wire transfer of such funds exceeding two hundred fifty thousand dollars (\$250,000) or any series of wire transfers of such funds occurring within any twenty-four (24) hour period which in the aggregate exceed two hundred fifty thousand dollars (\$250,000) shall require the prior written approval by the Principal Chief or, if the Principal Chief is absent or unavailable, by the officer of the Nation designated in writing for such purposes by the Principal Chief for the duration of the Principal Chief's absence or unavailability. The Controller shall not effect wire transfers of the Nation's funds to vendors, obligees or any other entities other than the Housing Authority of the Creek Nation of Oklahoma, Inc., unless the transfer has been approved in writing by the Principal Chief prior to the transfer of funds.

E. In furtherance of the duties and responsibilities imposed upon the Office of the Controller under the provisions of this Act, the Controller shall have the authority to:

1. Establish, with the written approval of the Principal Chief, appropriate accounts for the deposit and proper management of the Nation's funds at one or more banking, investment and/or other financial institutions which the Controller determines to be sound in financial condition;

2. Execute on behalf of the Muscogee (Creek) Nation, any appropriate agreements, bank account forms and other documents necessary for establishing such accounts; the Controller shall have the authority to execute such account agreement forms and documents whether or not the forms and documents provide for arbitration of disputes between the Nation and the banking, investment, or other financial institution and whether or not the forms and documents are to be construed by and governed in accordance with laws other than the Muscogee (Creek) Nation's laws; provided there is an absence of Muscogee (Creek) Nation law applicable to banking and/or financial investments and, provided further that a copy of the agreement or document containing an arbitration clause or choice of law provision must also be executed by the Principal Chief, and provided further that a copy of the agreement or document so executed shall be forthwith delivered to the Speaker of the National Council. The National Council hereby irrevocably and expressly grants a waiver of the Muscogee (Creek) Nation's sovereign immunity from suit, with respect to specific enforcement of the arbitration clause or choice of law provision found in the bank, investment or financial institution's forms or documents only in the Muscogee (Creek) Nation District Court or in a United States District Court in Oklahoma, provided that such waiver shall not extend to disputes between the Muscogee (Creek) Nation and any person or entity other than the bank, investment or financial institution named in said forms or documents; and provided further that such waiver of sovereign immunity shall constitute the Muscogee (Creek) Nation's consent to suit by the bank, investment or financial institution for the limited purpose of collection of the Muscogee (Creek) Nation's financial obligations to the bank, investment or financial institution established under the forms or documents from the funds of the Muscogee (Creek) Nation that are not subject to restrictions by law of the Muscogee (Creek) Nation or other governmental authority, and shall not be construed as granting a waiver for the purpose of obtaining a court judgement or order requiring payment from, delivery of, or otherwise affecting any other funds or assets of the Muscogee (Creek) Nation, or any real property, personal property or chattels of the Muscogee (Creek) Nation or any entities, agencies or political subdivisions of the Muscogee (Creek) Nation, or any other funds belonging to, or owed to, owned by, held in trust for, administered by or under the control of the Muscogee (Creek) Nation or any entities, agencies or political subdivisions of the Muscogee (Creek) Nation; and provided further that nothing in this limited waiver of sovereign immunity shall be construed as allowing any award of punitive damages or exemplary damages against the Muscogee (Creek) Nation.

3. Designate the persons who shall have signature authority on such accounts with the approval of the Principal Chief and consistent with the provisions of this section.

The National Council may from time to time, enact Tribal Resolutions which may be used and submitted by the Controller as evidence of his or her authority

to establish accounts with banking, investment, or other financial institutions. Provided, however, no such Resolution shall be construed to authorize the Controller to use, expend, manage, or invest the funds placed in any such account in any manner which would be inconsistent with the provisions of this Act or contrary to applicable law.

F. The provisions of this section shall not apply to funds or accounts which, pursuant to the provisions of duly enacted laws of the National Council, are placed under the independent control of boards of authorities of the Muscogee (Creek) Nation.

[NCA 88-70, § 120, added by NCA 92-13, § 101, approved April 1, 1992; amended by NCA 99-76, § 105, approved July 1, 1999; NCA 03-127, § 1, approved July 7, 2003; NCA 08-175, § 1, approved Nov. 3, 2008.]

¹ Native American housing assistance and self-determination, see 25 U.S.C.A. § 4101 et seq.

Library References

Indians ☞142, 210, 215.
Westlaw Topic No. 209.

C.J.S. Indians §§ 11, 37 to 38, 57 to 59, 66 to 72.

Code of Federal Regulations

Native American housing assistance, see 24 CFR 1000.1 et seq.

§ 2-718. Cash receipts and petty cash management

The National Council hereby authorizes the Controller to maintain policies required to meet the guidelines of generally accepted accounting principles for the centralization of cash receipts and petty cash management.

[NCA 01-203, § 3, approved Nov. 9, 2001.]

§ 2-719. Salary

The salary of the full-time position of Controller shall be increased from the present level to ninety-five thousand dollars (\$95,000.00) annually to be funded from indirect cost at one hundred percent (100%).

[NCA 92-48, § 103, approved April 1, 1992; amended by NCA 02-096, § 1; NCA 06-056, § 5, approved May 8, 2006.]

**SUBCHAPTER 8. OFFICE OF INTERNAL
AUDIT AND COMPLIANCE**

Section

- 2-801. Office of Internal Audit and Compliance.
- 2-802. Internal auditor and compliance.
- 2-803. Audits and reporting.

§ 2-801. Office of Internal Audit and Compliance

There is hereby created with in the Office of the Treasury an Office of Internal Audit and Compliance.

[Added by NCA 05-083, § 2, approved May 6, 2005.]

Library References

Indians ⇨210, 215.
Westlaw Topic No. 209.
C.J.S. Indians §§ 57 to 59, 66 to 72.

§ 2–802. Internal auditor and compliance

A. Duties. The Office of Internal Audit and Compliance shall perform reviews and compliance checks on all programs and enterprises operated by the Muscogee (Creek) Nation to insure compliance with all Tribal and federal, and where applicable, state laws. The Office of Internal Audit and Compliance shall provide assistance and support to the Office of the Controller in and during the engagement of independent auditors for the purpose of compliance with OMB Circular A–133, The Single Audit Act, and shall also provide technical assistance in the resolution and prevention of any disclosed findings as a result of any independent audit. For the purpose of this subchapter, Nation programs shall include any board, division, program, enterprise or entity under the jurisdiction of the Nation.

B. Personnel. The Office of the Controller shall be responsible for development of appropriate job descriptions for the staffing of the Office of Internal Audit and Compliance, provided that said job descriptions for the position of auditor(s) shall require no less than a Bachelors degree in Business Administration or Accounting. The Office of Internal Audit and Compliance may, as necessary, provide support and technical assistance to other auditors and law enforcement agencies of the Nation, and to the Public Accountant, whose position was created by MCNCA Title 11, Section 6–303.D.

[Added by NCA 05–083, § 2, approved May 6, 2005.]

Library References

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

§ 2–803. Audits and reporting

A. Audits. Audits and compliance reviews shall be performed on each Nation Program on an ongoing basis. Emphasis will be given to known audit findings to ensure that such findings are not recurrent. Other programs will be reviewed by random selection. Addition audits may be performed in response to requests by the Office of the Principal Chief, the National Council, or the Judicial Branch of the Muscogee (Creek) Nation.

B. Reporting. Reports of potential audit findings or non-compliance shall be reported to the Controller, Program Manager and the Division Director. In the event that the program or agency does not provide adequate response to such reports, the Office of Internal Audit and Compliance shall forward the report to the Office of the Principal Chief and to the Executive Director. Reports will be made available to the National Council and to the Office of the Attorney General upon request. Discovery of any potential criminal activity shall be reported immediately to the Controller, Office of Principal Chief, and to the appropriate Tribal law enforcement agency.

[Added by NCA 05–083, § 2, approved May 6, 2005.]

BUDGET AND FINANCE

Title 37, § 2-803

Library References

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

CHAPTER 3. EMPLOYEES

Subchapter

1. Boards, Authorities and Courts, Employment of Members Prohibited
2. Indian Preference
3. Disclosure of Names, Grades and Compensation
4. Employees Violating Law
5. Employee Protection
6. Politically Discharged Employees
7. Drug Testing Policy
8. Drug-Free Workplace
9. Minimum Hourly Wage

SUBCHAPTER 1. BOARDS, AUTHORITIES AND COURTS, EMPLOYMENT OF MEMBERS PROHIBITED

Section

- 3-101. Prohibition.
3-102. Resignation required.
3-103. Exemption.

Cross References

Election Board members, removal for violation of this subchapter, see Title 19, § 2-108.

§ 3-101. Prohibition

Effective May 25, 1981, no citizen of the Muscogee (Creek) Nation or other person who is employed by the Muscogee (Creek) Nation, or by any board or authority of the Muscogee (Creek) Nation, or by the Creek Nation Foundation Inc. shall be appointed to any board or authority of the Muscogee (Creek) Nation, or to any court of the Muscogee (Creek) Nation, with the exception of Chartered Muscogee (Creek) Indian Communities provided that the said Chartered Indian Community adopts by way of Constitution and bylaws Title 37, § 3-102C.

[NCA 81-60, § 101, approved June 8, 1981; amended by NCA 05-006, § 3, approved Feb. 9, 2005.]

Library References

Indians ⇄210, 214, 222, 224.
Judges ⇄4.
Westlaw Topic Nos. 209, 227.

C.J.S. Indians §§ 32 to 35, 57 to 59, 62, 66 to 72, 180.
C.J.S. Judges §§ 28 to 35, 38 to 39.

§ 3-102. Resignation required

A. Any person who holds office as a member of any board, authority or court of this Nation, who shall hereafter be offered employment with the Muscogee (Creek) Nation, or with any board or authority of the Muscogee (Creek) Nation, or with the Creek Nation Foundation, Inc. with the exception of the Chartered Muscogee (Creek) Indian Communities shall be required to resign such membership prior to employment.

EMPLOYEES

Title 37, § 3–202

B. Resignation under subsection A of this section may be conditional upon employment, and may be effective upon the initial date of employment.

C. Any person who holds office as a member of a Chartered Muscogee (Creek) Indian Community Board shall recuse themselves from any vote in the event that a conflict of interest occurs in regard to their position of employment with the Muscogee (Creek) Nation.

[NCA 81–60, §§ 102, 103, approved June 8, 1981; amended by NCA 05–006, § 4, approved Feb. 9, 2005.]

Library References

Indians ☞210, 222, 224.

Judges ☞10.

Westlaw Topic Nos. 209, 227.

C.J.S. Indians §§ 32 to 35, 57 to 59, 62, 66 to 72, 180.

C.J.S. Judges §§ 52 to 54, 68 to 69.

§ 3–103. Exemption

This subchapter shall not apply to the Executive Director of the Muscogee (Creek) Nation in his or her membership on the Board of Directors of Creek Nation Foundation, Inc.

[NCA 81–60, § 104, approved June 8, 1981.]

SUBCHAPTER 2. INDIAN PREFERENCE

Section

3–201. Title.

3–202. Applicability.

3–203. Preference.

3–204. Definition.

3–205. Muscogee (Creek) preference.

3–206. Employment prior to February 28, 1981.

3–207. Penalties.

Cross References

Buy Creek Act, procurement, see Title 32, § 1–101 et seq.

Local Hire Act, procurement, see Title 32, § 2–101 et seq.

Prosecutor, Assistant Prosecutor and Indigent Defense Attorney, preferences in selection, see Title 14, § 1–206.

§ 3–201. Title

This subchapter shall be known as the Indian Preference Law.

[NCA 81–40, § 101, approved March 2, 1981.]

Library References

Indians ☞213, 222, 224.

Westlaw Topic No. 209.

C.J.S. Indians §§ 32 to 35, 59 to 62, 67, 180.

§ 3–202. Applicability

A. This subchapter shall be binding upon every executive legislative, judicial and independent agency of the Muscogee (Creek) Nation, unless prohibited by

Title 37, § 3–202

TRIBAL GOVERNMENT

federal law. The Principal Chief is required to regularly report federal laws limiting the ability of the Nation to employ Indian people to the National Council.

B. This subchapter shall be effective concerning all hiring, promotion and transfer of employment of the Muscogee (Creek) Nation.

[NCA 81–40, §§ 102, 105, approved March 2, 1981.]

Library References

Indians ⇨213, 222, 224.

Westlaw Topic No. 209.

C.J.S. Indians §§ 32 to 35, 59 to 62, 67, 180.

§ 3–203. Preference

The Muscogee (Creek) Nation shall prefer to employ Indians (as defined by Title 37, § 3–204) in all positions where:

A. An Indian applicant is equally or more qualified than a non-Indian applicant, or

B. An Indian applicant is capable of being trained on the job to perform the required job duties within a sixty (60) day period, or

C. A position description requires that the employee speak and/or understand the Mvskoke (Muscogee) or Yuchi language, to be familiar with the culture or government of the Muscogee (Creek) people, or other qualifications which can be met only by the employment of qualified Indian people, or

D. Unless the prior and express consent of the National Council and Principal Chief is obtained by law, in the following specified positions:

1. Executive Director
2. Director
3. Manager

[NCA 81–40, § 103, approved March 2, 1981.]

Library References

Indians ⇨213, 222, 224.

Westlaw Topic No. 209.

C.J.S. Indians §§ 32 to 35, 59 to 62, 67, 180.

§ 3–204. Definition

The word “Indian,” as used in this subchapter, shall mean:

A. An enrolled Muscogee (Creek) Indian.

B. An enrolled member or citizen of any federally recognized Indian tribe, nation, band pueblo, rancheria or Alaskan Native Village, whose enrollment certifies them to be one-quarter (1/4th) or more Indian by blood, unless such a person is an unenrolled Muscogee (Creek) Indian.

[NCA 81–40, § 104, approved March 2, 1981.]

§ 3–205. Muscogee (Creek) preference

In all personnel decisions involving hiring, promotion, and/or reduction in force, a preference shall be required for the employment of enrolled Muscogee

EMPLOYEES

Title 37, § 3-301

(Creek) Indians by blood whenever such persons are equally qualified with other applicants or personnel.

[NCA 81-40, § 104, approved March 2, 1981; amended by NCA 81-72, § 101, approved June 27, 1981.]

Library References

Indians ☞213, 222, 224.
Westlaw Topic No. 209.
C.J.S. Indians §§ 32 to 35, 59 to 62, 67, 180.

§ 3-206. Employment prior to February 28, 1981

This subchapter shall not require the discharge of any person or persons who were employed by the Muscogee (Creek) Nation prior to February 28, 1981. [NCA 81-40, § 106, approved March 2, 1981.]

Library References

Indians ☞213, 222, 224.
Westlaw Topic No. 209.
C.J.S. Indians §§ 32 to 35, 59 to 62, 67, 180.

§ 3-207. Penalties

Any hiring, promotion, transfer, salary increase or wage adjustment granted by the Muscogee (Creek) Nation which is contrary to the terms of this subchapter shall be construed as a separate violation for each such action granted. Each separate violation of this subchapter shall require immediate dismissal of the unqualified employee, and shall subject all approving administrative personnel to a maximum penalty of two hundred dollars (\$200.00) as determined by the Courts of the Muscogee (Creek) Nation.

[NCA 81-40, § 108, approved March 2, 1981.]

Library References

Indians ☞213, 222, 224.
Westlaw Topic No. 209.
C.J.S. Indians §§ 32 to 35, 59 to 62, 67, 180.

SUBCHAPTER 3. DISCLOSURE OF NAMES, GRADES AND COMPENSATION

Section

3-301. Information to be provided.

§ 3-301. Information to be provided

Within ten (10) days of February 25, 1989 and on July 31 each year thereafter the Principal Chief shall submit to the National Council the following information:

A. A list of all Tribal positions and the names, grades and step levels of persons in those positions. Such list shall be published in the *Muscogee Nation News*.

B. A list of all Tribal positions and the compensation being paid for those positions. This shall include salaries, wages, stipends or any other compensation that is paid to any person under the jurisdiction of the Muscogee (Creek) Nation.

[NCA 89-07, § 102, veto overridden Feb. 25, 1989.]

Library References

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

SUBCHAPTER 4. EMPLOYEES VIOLATING LAW

Section

3-401. Violation of Constitution or law.

§ 3-401. Violation of Constitution or law

Any Creek Nation employee who violates the Creek Nation Constitution or any Creek Nation Tribal law is subject to termination from Creek Nation employment.

[NCA 88-73, § 102, veto overridden Jan. 28, 1989.]

Library References

Indians ⇄214, 224.
Westlaw Topic No. 209.
C.J.S. Indians § 59.

SUBCHAPTER 5. EMPLOYEE PROTECTION

Section

- 3-501. Definitions.
- 3-502. Other employee rights.
- 3-503. Prohibited acts.
- 3-504. Bad faith on part of employee.
- 3-505. Employee at will doctrine not impliedly abolished.
- 3-506. Notification of employees.
- 3-507. Procedures for filing application for review of adverse employment action.
- 3-508. Investigation and conference procedures.
- 3-509. Request for hearing.
- 3-510. Formal adjudicatory proceedings.
- 3-511. Appeal of adjudicatory proceedings.
- 3-512. Employee Protection Commission.
- 3-513. Powers and duties of Commission.

Historical and Statutory Notes

NCA 95-07, § 101, provides: “Findings: “The National Council Finds That: “A. The Muscogee (Creek) National Council finds that it is in the interest of the citizens of	the Muscogee (Creek) Nation (hereinafter “Nation”) that illegal, unethical, dishonest, or improper conduct by any branch, agency, or department of the Nation; or by any person within such branch, agency, or department; or by any person hired to perform services for
---	---

any such branch, agency, or department, be prevented.

“B. The Muscogee (Creek) National Council finds that the efficiency and effectiveness of operation of the Nation, its branches, agencies, and departments, is maximized by the elimination therein of all such illegal, unethical, dishonest, or improper conduct.

“C. The Muscogee (Creek) National Council believes that one primary interest of any government or governmental branch, agency, or department should be that it have credibility and

good standing both with its own citizens and those who are citizens and officials of other governments; and that such credibility and good standing are materially advanced when steps are taken to eliminate illegal, unethical, dishonest, or improper conduct.

“D. That an important component of the elimination of illegal, unethical, dishonest, or improper conduct within government is the ability of government personnel to report such conduct to the proper channels without fear of retaliation or reprisal.”

§ 3-501. Definitions

A. “Adverse employment action” shall be interpreted to include discharge or termination, whether actual or constructive; suspension, whether with or without pay; transfer; demotion; denial or reduction in wages or benefits; interference with the exercise of any right provided by this subchapter or any other statute of the Muscogee (Creek) Nation; or any act which otherwise adversely impacts an Employee’s compensation, terms, conditions, or privileges of employment. This shall also be interpreted to include threats of such actions, and offers of bribes to do or not do particular actions. It shall also refer to omissions, where the natural and probable result of such omission is an adverse impact upon the employee’s compensation, terms, conditions, or privileges of employment.

B. “Direct cause” of an act or omission shall be interpreted to mean that the act or omission would not have occurred but for the cause in question.

C. “Employee” shall be interpreted to include, without limitation, all officers (with the exception of elected officials) and employees of the Muscogee (Creek) Nation; all managers and employees of chartered communities, Muscogee (Creek) Nation bingo halls and smoke shops; and officers and employees of all Muscogee (Creek) Nation governmental agencies, branches, boards, committees, entities or related subdivisions, including the Creek Nation Foundation and employees of the Creek Nation Housing Authority, and thereof, whether now in existence or to exist in the future. The Creek Nation Housing Authority Office of Personnel shall implement this subchapter under the direction of the Creek Nation Personnel Office.

D. “Illegal motive” shall be interpreted to include the following:

1. An intention to retaliate or take reprisal against an employee for providing information or inducing another to provide information to the office of the Attorney General of the Muscogee (Creek) Nation, regarding any possible illegal, unethical, dishonest, or improper conduct by any other employee;

2. An intention to retaliate or take reprisal against an employee for providing information or inducing another to provide information to the office of the Attorney General of the Muscogee (Creek) Nation, regarding any adverse actions which have been taken in reprisal or retaliation for any action protected under this subchapter; or

Title 37, § 3-501

TRIBAL GOVERNMENT

3. An intention to interfere with an employee's exercise of any other right granted by this subchapter, or by any other statute of the Muscogee (Creek) Nation, whether present or future.

[NCA 95-07, § 102, eff. Feb. 13, 1995 (unsigned); amended by NCA 95-92, § 102, eff. Sept. 10, 1995 (unsigned); NCA 95-93, § 102, eff. Sept. 10, 1995 (unsigned).]

Library References

Indians ☞224.
Westlaw Topic No. 209.

§ 3-502. Other employee rights

In addition to the employee rights provided by Title 37, § 3-501, employees shall have the following rights pursuant to this subchapter:

A. The right to call any illegal, unethical, dishonest, or improper acts of another employee to the attention of a supervisor;

B. The right to call any dangerous working condition to the attention of a supervisor, or to request an inspection of a dangerous working condition: provided, that this subsection shall not be construed to require such an inspection to be automatically granted upon request;

C. Making statements or testifying, or agreeing to do so voluntarily or in response to a subpoena, in any informal or formal adjudicatory proceeding, informal conference proceeding, rulemaking proceeding, investigation or inspection by a governmental agency or body of the Muscogee (Creek) Nation, or judicial proceeding; or

D. Exercising rights granted under this subchapter on behalf of another employee.

[NCA 95-07, § 103, eff. Feb. 13, 1995 (unsigned).]

Library References

Indians ☞224.
Westlaw Topic No. 209.

§ 3-503. Prohibited acts

It shall be unlawful, and redressable as hereafter provided in this subchapter, for any employee to take any adverse employment action with regard to another employee, the direct cause of which is an illegal motive on the part of the actor.

[NCA 95-07, § 104, eff. Feb. 13, 1995 (unsigned).]

Library References

Indians ☞224.
Westlaw Topic No. 209.

§ 3-504. Bad faith on part of employee

Nothing in this subchapter shall be construed to protect any action taken involving deliberate falsehoods on the part of an employee.

[NCA 95-07, § 105, eff. Feb. 13, 1995 (unsigned).]

Library References

Indians ↻224.
Westlaw Topic No. 209.

§ 3-505. Employee at will doctrine not impliedly abolished

Nothing in this subchapter shall be construed to abolish the “employment at will doctrine” for employees affected thereunder, except as specifically provided by this subchapter.

[NCA 95-07, § 106, eff. Feb. 13, 1995 (unsigned).]

Library References

Indians ↻224.
Westlaw Topic No. 209.

§ 3-506. Notification of employees

Within thirty (30) days of the effective date of this subchapter, the Muscogee (Creek) Nation Employee Protection Commission shall furnish copies of this subchapter to all employers, supervisors, departments, agencies, and divisions which are subject to this subchapter. Said employers, supervisors, departments, agencies, and divisions shall immediately notify all employees under their authority of the passage and general nature of this subchapter, and shall make available a copy thereof for review by each employee. In addition, all new employees shall receive, at the time of hiring, a copy of this subchapter.

[NCA 95-07, § 107, eff. Feb. 13, 1995 (unsigned).]

Library References

Indians ↻224.
Westlaw Topic No. 209.

§ 3-507. Procedures for filing application for review of adverse employment action

A. Who may file. Any employee, or any authorized representative of employees, who believes that he/she has been the subject of any action prohibited by Title 37, § 3-503 may file an application for review of the complained-of act or omission. For purposes of these regulations, an application for review means the presentation of a written report of discrimination stating the reasons why the person believes he/she has been discriminated against and the facts surrounding the alleged discrimination.

B. Where to file. The employee or representative may file the application for review at the Office of Personnel, which shall maintain a log of all filings.

C. Time for filing. The employee or representative shall file an application for review within thirty (30) days after the alleged discrimination occurs. An application is considered filed:

1. On the date delivered if delivered in person to the Office of Personnel, or
2. On the date mailed to the Office of Personnel.

D. Running of the time of filing. The time for filing begins when the employee knows or has reason to know of the alleged discriminatory activity.

[NCA 95-07, § 108, eff. Feb. 13, 1995 (unsigned).]

Library References

Indians ☞224, 430.
Westlaw Topic No. 209.
C.J.S. Indians §§ 151 to 179.

§ 3-508. Investigation and conference procedures

A. Within seven (7) days after receipt of any application for review, the Office of Personnel shall mail a copy of the application for review to the person alleged to have caused the discrimination, shall file the application for review with the Muscogee (Creek) Nation Tribal Court, and shall notify the employee and the alleged discriminating person that the Office will investigate the complaint. The alleged discriminating person may file a response to the application for review within ten (10) days after he/she receives the copy of the application for review. The response shall specifically admit, deny or explain each of the facts alleged in the application unless the alleged discriminating person is without knowledge in which case he/she shall so state.

B. The Office of Personnel shall initiate an investigation of the alleged discrimination within thirty (30) days after receipt of the application for review. The Office shall complete the investigation within sixty (60) days of the date of the application for review. If circumstances surrounding the investigation prevent completion within the 60-day period, the Office shall notify the person who filed the application for review and the alleged discriminating person of the delay, the reason for the delay, and the expected completion date for the investigation.

C. Within seven (7) days after completion of the investigation the Office shall invite the parties to an informal conference to discuss the findings and preliminary conclusions of the investigation. The purpose of the informal conference is to attempt to conciliate or resolve the matter. If a complaint is resolved at an informal conference, the terms of the agreement will be recorded in a written document that will be signed by the alleged discriminating person, the employee, and the representative of the Office. If the Office concludes on the basis of a subsequent investigation that any party to the agreement has failed in any material respect to comply with the terms of any agreement reached during an informal conference, the Office shall take appropriate action to obtain compliance with the agreement.

D. Following the investigation and any informal conference held, the Office shall complete a written report of investigation which shall include a summary of the results of the conference. Copies of this report shall be available to the parties in the case.

[NCA 95-07, § 109, eff. Feb. 13, 1995 (unsigned).]

Library References

Indians ☞224, 411, 430.
Westlaw Topic No. 209.
C.J.S. Indians §§ 151 to 179.

§ 3-509. Request for hearing

A. If the Office determines that a violation of this subchapter has occurred and was not resolved at an informal conference, the Personnel Director shall

request a hearing on the employee's behalf before the MCN Employment Security Commission within ten (10) days of the scheduled informal conference. The parties shall be notified of the determination. If the Personnel Director declines to request a hearing, the employee shall be notified within ten (10) days of the scheduled informal conference and informed of his right to request a hearing on his own behalf.

B. The employee may request a hearing with the MCN Employment Security Commission after sixty (60) days have elapsed from the filing of his/her application.

[NCA 95-07, § 110, eff. Feb. 13, 1995 (unsigned).]

Library References

Indians ⚡224, 418.
Westlaw Topic No. 209.
C.J.S. Indians §§ 151 to 179.

§ 3-510. Formal adjudicatory proceedings

A. Formal adjudication of a complaint filed under this subchapter shall be conducted in the District Court Room of the Muscogee (Creek) Nation by the Employment Security Commission.

B. A hearing shall be held as promptly as possible consistent with opportunity for discovery provided for under the MCN Rules of Civil Procedure.

C. 1. Upon a finding of a violation under Title 37, § 3-503, the MCN Employment Security Commission shall order the appropriate affirmative relief including, but not limited to, the rehiring or reinstatement of the employee or representative of employees to his/her former position with compensation. At the request of the employee a sum equal to the aggregate amount of all costs and expenses including attorneys' fees which have been reasonably incurred by the employee for, or in connection with, the institution and prosecution of the proceedings shall be assessed against the person committing the violation. Additionally, any person found by the Muscogee (Creek) Nation Employment Security Commission to have violated the provisions of this subchapter, shall forfeit his/her position and be ineligible for appointment to or employment in a position covered by this subchapter for a period not to exceed five (5) years.

2. Upon a finding that there has been no violation under Title 37, § 3-503, the MCN Employment Commission shall order that a sum equal to the aggregate amount of all costs and expenses including attorneys' fees which have been reasonably incurred by the employee charged with having committed the violation, for or in connection with, the defense of such charges, shall be assessed against the person filing the complaint. All time spent in the defense by the person charged with the violation, but not found to be in violation of this subchapter, shall be reinstated to the employee.

D. Any person filing an application for review under this subchapter shall do so on his/her own personal time, either on annual leave or leave without pay; nor can the employee utilize his/her office equipment or staff to assist in any part of the preparation for filing an application for review. If the Court rules in favor of the employee filing the application, he/she shall be reinstated

their time which was required for the filing and preparation of the application for review.

[NCA 95-07, § 111, eff. Feb. 13, 1995 (unsigned); amended by NCA 95-93, §§ 103, 104, eff. Sept. 10, 1995 (unsigned).]

Library References

Indians ☞224, 418, 422.
Westlaw Topic No. 209.
C.J.S. Indians §§ 151 to 179.

§ 3-511. Appeal of adjudicatory proceedings

The decision of the Commission may be appealed by any party by the filing of a verified petition in a District Court of the Muscogee (Creek) Nation.

[NCA 95-07, § 112, eff. Feb. 13, 1995 (unsigned).]

Library References

Indians ☞224, 433, 434.
Westlaw Topic No. 209.
C.J.S. Indians §§ 151 to 179.

§ 3-512. Employee Protection Commission

There is hereby created an agency of the Muscogee (Creek) Nation, which shall be called the Muscogee (Creek) Nation Employee Protection Commission (hereinafter "Commission"). There shall be three (3) positions for members of the Commission. One (1) member shall be the Principal Chief's designee; one (1) member shall be a designee of the Supreme Court, selected by the Justices of that Court; the Speaker of the National Council's designee.

[NCA 95-07, § 113, eff. Feb. 13, 1995 (unsigned).]

Library References

Indians ☞224.
Westlaw Topic No. 209.

§ 3-513. Powers and duties of Commission

The Commission shall have the following powers and duties:

- A. To receive, review, investigate, and act upon complaints by employees of adverse employment actions which are alleged to violate Title 37, § 3-503;
- B. To hold informal meetings in order to resolve the matter by means of a conciliation agreement, and to take actions necessary to enforce the same;
- C. To hold formal hearings when necessary under the provisions of this subchapter, for the adjudication of claims of violations of this subchapter;
- D. To enter orders for appropriate relief, or to deny relief, when justified by the law and evidence;
- E. To take actions, including but not limited to filing suit in the District Court of the Muscogee (Creek) Nation, to enforce its own orders and adjudications; and

F. To formulate and adopt rules and regulations, and to take any other action, not inconsistent with this subchapter or any statute of the Muscogee (Creek) Nation, which is necessary and proper in aiding the Commission in carrying out its duties and exercising its powers conferred herein.

G. To hire a recording secretary whose compensation shall be forty-five dollars (\$45) a meeting. The Secretary shall not be an employee of the Muscogee (Creek) Nation. The Secretary shall provide the equipment necessary for the recording/transcribing of minutes of the Commission meetings. [NCA 95-07, § 114, eff. Feb. 13, 1995 (unsigned); amended by NCA 95-131, § 102, approved Oct. 31, 1995.]

Cross References

Budget, Employee Protection Commission, Recording Secretary compensation, see Title 37, § 2-111.

Library References

Indians ☞224, 418, 422.
Westlaw Topic No. 209.
C.J.S. Indians §§ 151 to 179.

SUBCHAPTER 6. POLITICALLY DISCHARGED EMPLOYEES

Section

3-601. Right of action.
3-602. Court hearing; reinstatement.

§ 3-601. Right of action

Any employee who is discharged or removed from office for the following reasons:

- A. Refusal to contribute any money or thing of value to a political candidate, whether directly or indirectly, or
- B. Refusal to be active or participate in any political contest or any election in the Muscogee (Creek) Nation, or
- C. Refusal to use Muscogee (Creek) Nation equipment or supplies in support of a candidate in any political contest or election

Shall be entitled to bring a suit in the District Court of the Muscogee (Creek) Nation for reinstatement.

[NCA 91-78, § 101, veto overridden Oct. 19, 1991.]

Library References

Indians ☞213, 224, 507, 533.
Westlaw Topic No. 209.
C.J.S. Indians §§ 59 to 61, 151 to 179.

§ 3-602. Court hearing; reinstatement

The District Court shall hear a discharged employee's complaint and if the court finds the discharged employee was discharged for refusing to contribute

to or participate in a political campaign for any candidate for public office, the court shall order the discharged employee reinstated to his former position of employment.

[NCA 91-78, § 102, veto overridden Oct. 19, 1991.]

Library References

Indians ☞213, 224, 518, 533.
Westlaw Topic No. 209.
C.J.S. Indians §§ 59 to 61, 151 to 179.

SUBCHAPTER 7. DRUG TESTING POLICY

Section

- 3-701. Drug policy defined.
- 3-702. Definitions.
- 3-703. Notice of drug convictions.
- 3-704. Drug testing of Muscogee (Creek) Nation employees.
- 3-705. Reasonable individualized suspicion.
- 3-706. Notification of employee.
- 3-707. Testing procedure.
- 3-708. No protection from law enforcement agencies.
- 3-709. Method of analysis.
- 3-710. Sample collected for employee to challenge test results.
- 3-711. Grievances.
- 3-712. Attempting to supply “clean” urine sample or tampering with urine sample.
- 3-713. Refusal to submit to drug testing.
- 3-714. Privacy of drug testing results.
- 3-715. Use by Nation of drug testing results.
- 3-716. Searches.
- 3-717. Administrative procedures.

Cross References

Drug offenses, see Title 14, § 2-701 et seq.

§ 3-701. Drug policy defined

It is the policy of the Muscogee (Creek) Nation that the consumption of illegal drugs and the abuse of legal drugs while in the work place and intoxication by illegal drugs and the abuse of legal drugs when at work represent a violation of the law and may also represent a threat to personal and public safety and property. Abuse and use of such substances can grossly diminish the productivity and reliability of employees thereby violating a public trust placed in public employees. Therefore, such behavior shall not be tolerated and the Muscogee (Creek) Nation will administer a program to educate employees about the hazards of drug usage and to eliminate drug usage amount by employees.

[NCA 93-42, § 101, approved July 12, 1993.]

Library References

Indians ☞224.
Westlaw Topic No. 209.

§ 3–702. Definitions

A. Illegal drugs or intoxicating substances are those classified or scheduled drugs for which a criminal penalty can be incurred for use, sale or distribution. Ingesting legal substances as inhalants, propellants, or volatile substances, for their intoxicating effects is included.

B. Legal drugs can include alcohol plus prescription medication which has not been prescribed for the employee, or has not been prescribed for the amount obtained by the employee, or is not being used at the dosage prescribed for the employee and has an intoxicating and/or potentially addicting effect. [NCA 93–42, § 101, approved July 12, 1993.]

§ 3–703. Notice of drug convictions

It shall be required as a condition of employment that an employee will notify their Department Head in writing of any criminal drug statute conviction, no later than five (5) days after such conviction.

[NCA 93–42, § 101, approved July 12, 1993.]

Library References

Indians ⇄224.
Westlaw Topic No. 209.

§ 3–704. Drug testing of Muscogee (Creek) Nation employees

Drug tests by urinalysis test for the purpose of detecting the use of illegal classified or scheduled drugs and the abuse of legal drugs by any classified, appointed, temporary or law enforcement employee is deemed as reasonable and within policy when there is reasonable individualized suspicion of drug use.

[NCA 93–42, § 102, approved July 12, 1993.]

Library References

Indians ⇄224.
Westlaw Topic No. 209.

§ 3–705. Reasonable individualized suspicion

Drug tests may be administered to Muscogee (Creek) Nation employees by urinalysis test and results used as a basis for disciplinary action when there is reasonable individualized suspicion of intoxication by legal or illegal drugs based on:

- A. Odors or other direct physical signs of legal or illegal drug use immediately perceivable by the senses, or
- B. Physical presence of legal or illegal intoxicating substances or containers or paraphernalia commonly associated with the use of such substances, or
- C. Direct witnessing of the consumption of intoxicating substances, or
- D. Marked changes in an employee’s behavior such as extreme excitability, strong and inappropriate feelings of euphoria, or uncontrollable drowsiness or inattention, or

E. Suspicion that such drug use has occurred or is ongoing. Testing for drug use based on suspicion yet not based on direct and immediate physical or behavioral evidence, must only be conducted when there is sufficient confidence in the information leading to such suspicion.

[NCA 93-42, § 102, approved July 12, 1993.]

Library References

Indians ☞224.
Westlaw Topic No. 209.

§ 3-706. Notification of employee

Any Muscogee (Creek) Nation employee must be informed of the possibility that they could undergo drug tests by urinalysis test for illegal classified or scheduled drugs and legal drugs before any such urinalysis test may actually be conducted. See Exhibit A, attached hereto.

Exhibit A.

Sample Letter

NOTICE TO EMPLOYEE SUBJECT TO [REASONABLE SUSPICION]

TESTING FOR ILLEGAL DRUGS

[Date]

Subject: Notice of Reasonable Suspicion Testing for Illegal Drugs From:

[Supervisor/Management Official]

To: [Employee]

It has been determined by [agency/special district] officials that sufficient grounds exist to authorize collection of a urine specimen from you on the basis of reasonable suspicion. Collection procedures under reasonable suspicion testing will require you to provide a specimen under direct observation.

[NOTE: The supervisor/management official MUST provide a separate statement describing all relevant circumstances which formed the basis for the decision to conduct reasonable suspicion drug testing.]

Drug testing for the [agency/special district] is performed through urinalysis by [an independently contract laboratory certified by the Department of Defense]. The testing methodology reflects the scientific and technical procedures necessary to assure the results are highly reliable and accurate. These procedures will include an initial screen of the urine sample and if the results are positive, the test will be confirmed by another method. You will be given an opportunity to list all prescription and over-the-counter drugs that could affect the outcome of the drug test and which may be identified through the confirmation process.

To assure that the sample collected from you is not confused with any other sample, strict procedures will be used when collecting, transferring, and testing the specimen. The total of these procedures is known as the chain of custody. The test results from your sample will be handled with maximum respect for individual confidentiality consistent with safety and security.

If it has been determined that you are using illegal drugs, you will be subject to disciplinary measures, including termination.

Refusal to submit to testing or failure to cooperate with the collection procedures will be grounds for disciplinary action.

If you have other questions, please contact [appropriate individual].

[NCA 93–42, § 103 and Exhibit A, approved July 12, 1993.]

Library References

Indians ☞224.

Westlaw Topic No. 209.

§ 3–707. Testing procedure

A. When urinalysis or blood test is to be conducted for reasonable individualized suspicion, the supervisor in charge will advise the employee that the employee is suspected of being under the influence of intoxicants. The supervisor will advise the employee that if such intoxication is confirmed, that the employee may be dismissed. The supervisor shall notify their higher level supervisor that an employee is being asked to submit to a drug test.

B. If the employee is ambulatory, the employee's supervisor will transport the employee to the Medical Division where a urinalysis test will be conducted. The exempt supervisor will witness the consent form and supply a written statement outlining the reasons for requesting the drug tests.

C. 1. If the urinalysis test results are determined to be positive and if the employee is a current participant in the Employee Assistance Program (EAP) for substance abuse, the employee may be suspended, demoted, or terminated following a pre-action or pre-termination hearing.

2. If the employee is not a participant of the EAP and work rules were violated in conjunction with a positive drug test, the employee shall be subject to dismissal following a pre-termination hearing.

3. If the employee is not a participant of the EAP and had a positive drug test, but did not break other work rules, the appointing authority may suspend, demote, or dismiss the employee following a pre-action of pre-termination hearing.

4. Additional factors that shall be considered when determining the disciplinary action shall be the responsibilities of the position, the dangers which the drug use or intoxication presented, and the past work history of the employee.

5. Continued employment shall be contingent upon the employee agreeing in writing to undergo periodic drug testing for two (2) years and satisfactorily participating in the Employee Assistance Program.

D. If substances were detected in the urinalysis test which were allegedly prescribed for the employee, the employee has twenty-four (24) hours after learning of the results of the urinalysis test to produce a valid prescription. Employees who cannot produce a valid prescription will be subject to disciplinary action. The decision to suspend, demote, or dismiss will be based on criteria set out in the above policy sections.

E. The exempt supervisor shall be responsible to make a reasonable effort to insure the employee is safely transported to their place of residence after testing for drug use has been completed.

F. If an employee is not conscious, the situation will be considered a medical emergency. The physician will take whatever actions are deemed necessary, within the scope of professional judgment, to adequately respond to the emergency.

[NCA 93-42, § 104, approved July 12, 1993.]

Library References

Indians ☞224.
Westlaw Topic No. 209.

§ 3-708. No protection from law enforcement agencies

No section of this policy is to be interpreted as protecting Muscogee (Creek) Nation employees from law enforcement agencies or agents wishing to apprehend or investigate Muscogee (Creek) Nation employees for the use, sale, or distribution of an illegal controlled or scheduled substance as a part of a bona fide criminal investigation.

[NCA 93-42, § 105, approved July 12, 1993.]

Library References

Indians ☞224.
Westlaw Topic No. 209.

§ 3-709. Method of analysis

Evidence of drug use will only be considered as valid when both presumptive and confirmatory analysis methods are used.

[NCA 93-42, § 106, approved July 12, 1993.]

Library References

Indians ☞224.
Westlaw Topic No. 209.

§ 3-710. Sample collected for employee to challenge test results

Employees wishing to receive urine or blood tests which could be used to challenge the results of drug test urinalysis must:

- A. Do so at their own expense;
- B. Allow the physician to draw or witness the sample;
- C. Have the sample drawn or witnessed within one (1) hour from the time at which the urine or blood was collected;
- D. Arrange for a reputable laboratory of their choosing to collect the sample directly from the office of the physician for analysis.

[NCA 93-42, § 107, approved July 12, 1993.]

Library References

Indians ⇄224.
Westlaw Topic No. 209.

§ 3-711. Grievances

Grievances arising from implementation of this drug testing policy will be handled through the Muscogee (Creek) Nation Policies and Procedures grievance procedure.

[NCA 93-42, § 107, approved July 12, 1993.]

Library References

Indians ⇄224.
Westlaw Topic No. 209.

§ 3-712. Attempting to supply “clean” urine sample or tampering with urine sample

Employees found supplying or attempting to supply a “clean” urine sample, not their own, by whatever means, shall be subject to dismissal. Employees tampering with their urine sample through the introduction of chemical substances shall be subject to dismissal.

[NCA 93-42, § 108, approved July 12, 1993.]

Library References

Indians ⇄224.
Westlaw Topic No. 209.

§ 3-713. Refusal to submit to drug testing

If reasonable individualized suspicion exists, an employee’s refusal to sign the consent form, or to submit to drug testing when requested, shall be subject to disciplinary action that may include dismissal.

[NCA 93-42, § 109, approved July 12, 1993.]

Library References

Indians ⇄224.
Westlaw Topic No. 209.

§ 3-714. Privacy of drug testing results

Employees required to submit to a drug test urinalysis or test shall be afforded a certain degree of privacy. Only the physician, the departmental appointing authority, and the Personnel Director or designee are to be made aware of the results. Urinalysis or blood test results will not be placed in the employee’s personnel file. The results will be stored at the medical division and will be purged under authority of the physician every ten (10) years.

[NCA 93-42, § 109, approved July 12, 1993.]

Library References

Indians ⇄224.
Westlaw Topic No. 209.

§ 3-715. Use by Nation of drug testing results

Drug screen urinalysis or blood test results may be used by the Muscogee (Creek) Nation for evidential purposes, to support cause for the discharge, demotion, or suspension of employees; or to demonstrate that a Muscogee (Creek) Nation employee was acting in a responsible manner when the action of the employee has been made the subject of litigation.

[NCA 93-42, § 109, approved July 12, 1993.]

Library References

Indians ⇄224.
Westlaw Topic No. 209.

§ 3-716. Searches

Equipment and supplies owned by the Muscogee (Creek) Nation and used by employees may be searched for drugs upon reasonable individualized suspicion that drugs will be found in particular equipment or supplies. The personal effects of employees may only be searched as a part of a bona fide criminal investigation which could lead to the arrest of the employee.

[NCA 93-42, § 109, approved July 12, 1993.]

Library References

Indians ⇄224. C.J.S. Searches and Seizures §§ 17, 20 to 24,
Searches and Seizures ⇄25, 40. 27, 29 to 30, 34 to 41, 43, 45 to 50, 56, 58
Westlaw Topic Nos. 209, 349. to 67, 69, 79, 81 to 82, 84 to 85, 130.

§ 3-717. Administrative procedures

Department heads are responsible for establishing and communicating their administrative procedures that clearly state probable departmental actions where drug use has been confirmed.

[NCA 93-42, § 109, approved July 12, 1993.]

SUBCHAPTER 8. DRUG-FREE WORKPLACE

Section

- 3-801. Definitions.
- 3-802. Policy.
- 3-803. Procedures.
- 3-804. Suspensions and disciplinary actions.
- 3-805. External sanctions.
- 3-806. Counseling and rehabilitation sources; Employee Assistance Program.
- 3-807. Health risks.
- 3-808. Investigations.
- 3-809. Off-the-job drug use.
- 3-810. Prescribed medical treatment.
- 3-811. Alcohol use.
- 3-812. Drug testing.

Historical and Statutory Notes

NCA 93-107, §§ 101, 102, provide: “§ 101. Findings:

“The National Council finds that:

“The drug free work place act of 1988, 34 CFR, Part 85, subpart F, requires certification regarding a drug-free work place. The regulations published January 31, 1989, *Federal Register*, requires certification by grantee, prior to award, that they will maintain a drug free work place.

“§ 102. Purpose and Scope:

“A. The Muscogee (Creek) Nation is committed to providing a safe and healthy work environment for its members and reliable services to the impact on the tribe and have the potential

to affect an individuals ability to perform work in an efficient and productive manner. A basic objective of the tribe is to maintain a work environment free from the effects of drugs or alcohol abuse or misuse.

“B. The Drug-Free Workplace Act passed by Congress in 1988 [see 41 U.S.C.A. § 701 et seq.] requires federal contractors and grantees to certify to the contracting or granting agency that they will provide a drug-free workplace. This policy is adopted in order to comply with this statutory directive.”

Cross References

Budget, drug-free workplace, see Title 37, § 2–108.

Drug offenses, see Title 14, § 2–701 et seq.

§ 3–801. Definitions

A. Controlled substance—Cocaine, marijuana, opiates, amphetamines and any other substance designated a “controlled substance” in schedules I through V of Section 202 of the Controlled Substances Act (231 U.S.C. § 812). Except peyote—when used by Native American church members of one-quarter (1/4) blood or more off the job for ceremonial purpose where peyote is a sacrament or aid to worship.

B. Conviction—A finding of guilt (including judicial acceptance of a plea of nolo contendere) or imposition of a sentence, or both, by a judicial body determining violations of federal or non-federal criminal drug statutes.

C. Criminal drug statute—A federal or non-federal criminal statute involving the manufacture, distribution, dispensation, use or possession of any controlled substance.

D. Employee—Shall include all administrative and professional staff, classified, staff, student trainees, management personnel of the Muscogee (Creek) Nation and any independent agency, or division of the Nation.

E. Illegal drug—Drugs which are illegal under federal, state, or local laws include, but are not limited to marijuana, heroin, hashish, cocaine, hallucinogens, and depressants and stimulants not prescribed for current personal treatment by an accredited physician.

F. Project director—The individual having administrative supervision over a project resulting from a federal grant or contract.

G. Workplace—Muscogee (Creek) Nation owned or controlled property or the site for performance of work.

[NCA 93–107, §§ 103, 111, approved July 12, 1993.]

Library References

Indians ⇄224.

Westlaw Topic No. 209.

§ 3–802. Policy

In support of this anti-drug abuse legislation, it is the policy of Muscogee (Creek) Nation to establish and maintain appropriate compliance by:

Title 37, § 3-802

TRIBAL GOVERNMENT

A. Publishing and distributing to all employees a written statement regarding this controlled substance prohibition in the workplace, with descriptions of disciplinary actions which may be taken against employees for violation of such prohibition. See Appendix A, following Title 37, § 3-812.

B. Establishing a drug-free awareness program.

C. Notifying the contracting or granting agency within ten (10) days of receiving notice of an employee's criminal drug statute conviction for a violation occurring in the workplace.

D. Imposing appropriate administrative disciplinary action on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is so convicted or who has otherwise violated this policy.

E. Making a good-faith continuous effort to maintain a drug-free workplace through the implementation of the requirements set forth in the Drug-Free Workplace Act.¹

F. Prohibiting the use, possession, manufacture, distribution or dispensation of any illegal drug, narcotic, or controlled substance while on the job or Tribal property.

[NCA 93-107, § 104, approved July 12, 1993.]

¹ 41 U.S.C.A. § 701 et seq.

Library References

Indians ⇄224.

Westlaw Topic No. 209.

§ 3-803. Procedures

A. A copy of the written statement in Appendix A (following Title 37, § 3-812), regarding the controlled substance prohibition in the workplace, shall be disseminated to all current employees, posted in the workplace of each department of the Nation and given to each new employee.

B. The project director will have the responsibility of explaining this policy to employees working on a federal contract/grant.

C. An employee shall notify the project director or, in the absence of a project director, his/her immediate supervisor or other supervisory administrator, of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction.

D. The project director shall notify the Department of Grants and Contracts Administration (GCA) of an employee's criminal drug statute conviction for a violation occurring in the workplace. The GCA shall notify the federal contracting or granting agency of such conviction within ten (10) days of the notice under subsection C of this section or otherwise receiving actual notice of such conviction. The project director's notification shall be made in a timely manner so that GCA may comply with the time requirement set forth herein.

[NCA 93-107, § 105, approved July 12, 1993.]

Library References

Indians ☞224.
Westlaw Topic No. 209.

§ 3–804. Suspensions and disciplinary actions

A. An employee found at any time to have violated the drug-free workplace policy may be disciplined by Muscogee (Creek) Nation even when the violation has not resulted in a criminal conviction. Employees may also be temporarily suspended if such is deemed necessary to protect the best interest and safety of the Tribe, its components and participants. Further, employees alleged to have violated this prohibition shall be subject to disciplinary action including, but not limited to, expulsion, termination of employment, referral for prosecution, and/or completion, at the individual's expense, of an appropriate rehabilitation program. As an alternative to disciplinary action, the Muscogee (Creek) Nation may require satisfactory participation in a drug abuse assistance or rehabilitation program as a condition to continued employment. The drug abuse assistance/rehabilitation program shall be one that has been previously approved for such purposes by a federal, state or local health, law enforcement or other appropriate agency.

B. In determining whether a violation of the drug-free workplace policy has occurred and the disciplinary action to be imposed as a result of such violation, relevant provisions of the Employee Handbook shall be followed insofar as employees are concerned, and the relevant Policy and Procedures Letter(s) shall be followed insofar as staff employees are concerned.

C. One of the actions set forth in subsection A of this section (i.e., discipline or satisfactory participation in a drug abuse assistance/rehabilitation program) shall be taken within thirty (30) days of receiving notice from an employee of a conviction as provided for in subsection C of Title 37, § 3–803.

D. Failure of an employee to report his/her criminal drug statute conviction for a violation in the workplace within five (5) days of the conviction is grounds for dismissal of that employee.

E. For staff employees, appropriate and established leave policies will be followed or the purposes of such treatment and rehabilitation.

F. Where necessary because of conviction and incarceration, decisions relative to suspension or dismissal or the granting of leave for treatment will be determined individually.

[NCA 93–107, § 106, approved July 12, 1993.]

Library References

Indians ☞224.
Westlaw Topic No. 209.

§ 3–805. External sanctions

Federal law provide for a variety of legal sanctions for the unlawful possession and distribution of illicit drugs. These sanctions include, but are not limited to incarceration and monetary fines.

[NCA 93–107, § 107, approved July 12, 1993.]

Library References

Indians ☞224.
Westlaw Topic No. 209.

§ 3-806. Counseling and rehabilitation sources; Employee Assistance Program

A. The Muscogee (Creek) Nation Employee Assistance Program operated by the Personnel Services Office may be contacted for preliminary counsel and advice regarding chemical dependency problems and referral to approved chemical dependence treatment agencies.

B. There are several programs in the community or nearby that provide rehabilitation and counseling assistance to drug victims. Employees may obtain a listing of these programs from the Personnel Services Office. Seeking help from, being referred to or from these services is confidential, and will not, along, result in disciplinary action. In addition, the following toll-free, hotline numbers may be of use to someone needing help or advice:

National Institution on Drug Abuse	1-800-662-HELP
National Drug Abuse Hotline	1-800-241-9746

[NCA 93-107, § 108, approved July 12, 1993.]

Library References

Indians ☞224.
Westlaw Topic No. 209.

§ 3-807. Health risks

Drug use represent serious threats to health and the quality of life. More than twenty-five thousand (25,000) people die each year from drug-related accidents or health problems. With most drugs it is probable that users will develop psychological and physical dependence. The general categories of drugs and their effects are as follows:

A. Amphetamines/stimulants—(speed, uppers, crank, caffeine, etc.) speed up the nervous system which can cause increased heart and breathing rates, higher blood pressure, decreased appetite, headaches, blurred vision, dizziness, sleepiness, anxiety, hallucinations, paranoia, depression, convulsions and death due to a stroke or heart failure.

B. Anabolic steroids—seriously affect the liver, cardiovascular, and reproductive systems. Can cause sterility in males and females, as well as impotency in males.

C. Barbiturates/depressants—(downers, quaaludes, valium, etc.) slow down the central nervous system which can cause decreased heart and breathing rates, lower blood pressure, slowed reactions, confusion, distortion of reality, convulsion, respiratory depression, coma, and death. Depressants combined with alcohol can be lethal.

D. Cannabis—(marijuana, hashish, hash, etc.) impairs short-term memory, comprehension, concentration, coordination, and motivation. May also cause

paranoia and psychosis. Marijuana smoke contains more cancer-causing agents than tobacco smoke.

E. Cocaine/crack—stimulates the central nervous system and is extremely addictive, both psychologically and physically. Effects include dilated pupils, increased heart rate, elevated blood pressure, insomnia, loss of appetite, hallucinations, paranoia, seizures, and death due to cardiac arrest or respiratory failure.

F. Hallucinogens—(PCP, angel dust, LSD, etc.) interrupt the functions of the part of the brain which controls the intellect and instincts. May result in self-inflicted injuries, impaired coordination, dulled senses, incoherent speech, depression, anxiety, violent behavior, paranoia, hallucinations, increased heart rate and blood pressure, convulsions, coma, and heart and lung failure.

G. Narcotics—(smack, horse, demerol, percodan, etc.) initially produces feelings of euphoria often followed by drowsiness, nausea, and vomiting. An overdose may result in convulsions, coma, and death.

[NCA 93–107, § 109, approved July 12, 1993.]

Library References

Indians ☞224.
Westlaw Topic No. 209.

§ 3–808. Investigations

All investigations of drug and alcohol abuse or misuse shall be under the direction of the Personnel Officer. Methods of investigations into suspected violations of this act may include but not limited to urinalysis drug testing to detect the presence of drugs or alcohol, and inspections or searches. All employees shall abide by the terms of this act as a condition of employment and cooperate fully in investigations of suspected violations of this policy.

[NCA 93–107, § 110, approved July 12, 1993.]

Library References

Indians ☞224.
Westlaw Topic No. 209.

§ 3–809. Off-the-job drug use

Unlawful involvement with drugs or narcotics while on the job or off is not acceptable because it can affect the job performance as well as the sensitivity of our Tribal citizens. The use, possession, manufacture, distribution or dispensation, of illegal drugs, narcotics or controlled substances while on the job or off is considered a violation of this act and is grounds for disciplinary action up to and including discharge. Tribal employees will not be permitted to report to work or perform their duties after having ingested illegal drugs and while under the influence thereof.

[NCA 93–107, § 111, approved July 12, 1993.]

§ 3–810. Prescribed medical treatment

The use of controlled medication or over-the-counter drugs as part of a prescribed medical treatment program is naturally not grounds for corrective

action, but it may be important for supervision to know such is occurring on order to determine job assignments. Any member undergoing prescribed medical treatment with a controlled medication that could impair his/her physical, mental operational faculties shall immediately report this treatment to his/her supervisor.

[NCA 93-107, § 111, approved July 12, 1993.]

Library References

Indians ☞224.
Westlaw Topic No. 209.

§ 3-811. Alcohol use

The use of alcohol on the job or Tribal premises is prohibited, and use of alcohol off the job that adversely affects a member’s job performance is not acceptable.

[NCA 93-107, § 111, approved July 12, 1993.]

Library References

Indians ☞224.
Westlaw Topic No. 209.

§ 3-812. Drug testing

A. An employee shall be requested to submit to a urinalysis drug/alcohol screening test only when there is reasonable individualized suspicion to believe that employee is intoxicated by drugs or alcohol. These tests will be initiated by the Personnel Officer within the Executive Branch as deemed necessary on an individual basis. Additionally drug/alcohol test may be requested following certain serious accidents as determined by the responsible divisional director or manager. Refusal to participate in a drug/alcohol test where there is reasonable individualized suspicion or after an accident causing personal injury or property damage or a positive analytical test result indicating illegal drug use will result in disciplinary action up to and including discharge.

B. The personnel services administration is hereby charged with the responsibility of negotiating with a reputable firm to provide these type of on site drug/alcohol urinalysis tests.

[NCA 93-107, §§ 112, 113, approved July 12, 1993.]

Library References

Indians ☞224. C.J.S. Searches and Seizures §§ 3, 21, 51 to
Searches and Seizures ☞31, 40. 56, 58 to 67, 69, 130.
Westlaw Topic Nos. 209, 349.

APPENDIX A

MUSCOGEE (CREEK) NATION

Management Policy & Procedures Letter

MEMORANDUM

TO: All Employees of the Muscogee Nation

EMPLOYEES—DRUG TESTING POLICY

**Title 37, Ch. 3
Subch. 8, App. A**

National Council/Judicial Branch/Independent Agencies
Boards and Commissions
Personnel Services
Contracts and Grants Administration

FROM: Executive Director

SUBJECT: Drug-Free Work Place Policy Statement

POLICY STATEMENT

In accordance with the Drug-Free Work Place Act of 1988, Muscogee (Creek) Nation hereby notifies all employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the workplace. Any employee found to have violated this prohibition may be subject to disciplinary action up to and including dismissal or be required to satisfactorily participate in a drug abuse assistance or rehabilitation program as a condition of continued employment. The drug abuse assistance/rehabilitation program shall be one that has been previously approved for such purposes by a federal state or local health, law enforcement or other appropriate agency. The imposition of such disciplinary action or requirement to satisfactorily participate in a drug abuse assistance/rehabilitation program is premised solely upon a violation of this prohibition and does not require a criminal conviction.

As a condition of employment at Muscogee (Creek) Nation all employees will:

1. Comply with the terms of this statement; and
2. Notify the Muscogee (Creek) Nation in writing (through their immediate supervisor, other supervisory administrator or project director) of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction.

Such conviction may, of course, result in the employee being disciplined or required to satisfactorily participate in a drug abuse assistance/rehabilitation program as specified above. Failure of an employee to report his/her conviction, as required herein, constitutes grounds for dismissal.

As a further requirement of the Drug-Free Work Place Act, the Muscogee (Creek) Nation has established a drug-free awareness program for the purpose of informing employees about the dangers of drug abuse in the workplace, the Muscogee (Creek) Nation's prohibition of controlled substances in and on Tribal property, any available drug counseling, rehabilitation and employee assistance programs, and the penalties that may be imposed for drug abuse violations. An Employee Assistance Program has been created in furtherance of the drug-free awareness program. Information about the drug-free awareness program and the Employee Assistance Program may be obtained from the Personnel Services Department.

Reference is made to the Drug-Free Work Place Act of 1988 as sources of information and clarification.

ALCOHOL AND DRUG POLICY

Verification of Employee Awareness of Drug Policy

Title 37, Ch. 3, Subch. 8, App. A

TRIBAL GOVERNMENT

The Anti-Drug Abuse Act of 1988 requires the Creek Nation to establish a drug free workplace.

1. It shall be the policy of Creek Nation to provide a drug free workplace for its employees. Any employee reporting to work under the influence, use on the job, or distribution on the job of alcohol or any mind altering drug shall be subject to disciplinary action.

2. As a condition of employment, an employee must agree to notify the Creek Nation in writing of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) calendar days after such conviction. Any employee involved in irrational behavior or an accident on the job, and the incident thought to be drug related, shall be required to take a drug test. Drug testing will follow the recommendation of a Department Chairman, Personnel Manager and/or Principal Chief. Any employee refusing to take a drug test, after just cause for suspicion, shall be discharged. If the drug test is positive the employee shall be discharged.

3. An employee convicted of a drug related felony while off duty shall be discharged from employment. An employee convicted of a drug related misdemeanor while off duty will be required to attend a drug rehabilitation program. After two (2) convictions of an employee for drug related misdemeanors, the employee shall be discharged from employment with the Creek Nation.

“I have read the Anti-Drug Policy and understand that all employees will comply with all statements included in this policy.”

Supv./Mgr./Dir. Signature

Employee Signature

Date

Personnel Mgr. Signature

SUBCHAPTER 9. MINIMUM HOURLY WAGE

Section

- 3-901. Establishment of minimum wage rates.
- 3-902. Prohibition of sex, race, age or disability discrimination.
- 3-903. Allowance for pre-existing minimum wage rates.

§ 3-901. Establishment of minimum wage rates

The Muscogee (Creek) Nation, its independent agencies, except the Gaming Operations Authority Board and all casinos under the management of the Gaming Operations Authority Board, Muscogee (Creek) Nation Business Enterprise and Tribal Trade and Commerce Authority, and any other entity owned by the Muscogee (Creek) Nation shall, to each employee who, in any workweek, is an employee of the Muscogee (Creek) Nation, its independent agency, except the Gaming Operations Authority Board and all casinos under the management of the Gaming Operations Authority Board, Muscogee (Creek) Nation Business Enterprise and Tribal Trade and Commerce Authority, or any other entity owned by the Nation, and while working in such a capacity is engaged in commerce or in the production of goods, pay wages at the following rates:

Not less than seven dollars and sixty-seven cents (\$7.67) per hour during the period beginning on October 1, 2007 and ending on September 30, 2008, not less than nine dollars and twenty-five cents (\$9.25) per hour during the year beginning on October 1, 2008 and ending on September 30, 2010, and not less than ten dollars and fifteen cents (\$10.15) per hour beginning on October 1, 2010 and continuing thereafter until and unless amended by law.

[Added by NCA 07-001, § 3, eff. May 2, 2007; amended by NCA 09-053, § 1, approved May 6, 2009, eff. Oct. 1, 2009.]

Library References

Indians ☞224.
Westlaw Topic No. 209.

§ 3-902. Prohibition of sex, race, age or disability discrimination

No employer having employees subject to the provisions of this section shall discriminate, within any establishment in which such employees are working, between employees on the basis of sex, race, age or disability by paying wages to employees in such establishment at a rate less than the rate paid to any other employee in such establishment for equal work on jobs which require equal skill, effort and responsibility and which are performed under similar working conditions, except where such payment is made pursuant to (i) a seniority system; (ii) a merit system; (iii) a system which measures earnings by quantity or quality of production; or (iv) a differential based on any factor other than sex, race, age or disability; provided that an employer who is paying a wage differential in violation of this subsection shall not, in order to comply with the provisions of this subsection, reduce the wage rate of the employee.

For purposes of administration and enforcement, any amounts owing to any employee which have been withheld in violation of this subsection shall be deemed to be unpaid minimum wages or unpaid overtime compensation under this law.

[Added by NCA 07-001, § 3, eff. May 2, 2007.]

Library References

Indians ☞224.
Westlaw Topic No. 209.

§ 3-903. Allowance for pre-existing minimum wage rates

Nothing herein prohibits, impedes or hinders any employer of the Muscogee (Creek) Nation from paying employees a minimum wage higher than that declared by the United States Fair Labor Standards Act of 1938¹ as amended, or by any standard which has previously or presently been enacted by administrative rules or decisions or by prior legislation of the Muscogee (Creek) Nation.

[Added by NCA 07-001, § 3, eff. May 2, 2007.]

¹ See 29 U.S.C.A § 206.

Library References

Indians ☞224.
Westlaw Topic No. 209.

CHAPTER 4. CONFLICT OF INTEREST

Section

- 4-101. Prohibition.
- 4-102. Termination of contracts.
- 4-103. Violations.

§ 4-101. Prohibition

No officer or employee of the Muscogee (Creek) Nation or officer or employee of any entity under the jurisdiction of the Muscogee (Creek) Nation shall be permitted to enter into business contracts or do business with the Muscogee (Creek) Nation.

[NCA 89-04, § 101, veto overridden Feb. 25, 1989.]

Library References

Indians ☞224.
Westlaw Topic No. 209.

§ 4-102. Termination of contracts

All contracts and/or business that may at this time (February 25, 1989) have been entered into between officers or employees of the Muscogee (Creek) Nation or with any entity under the jurisdiction of the Muscogee (Creek) Nation are hereby terminated as of February 25, 1989.

[NCA 89-04, § 102, veto overridden Feb. 25, 1989.]

Library References

Indians ☞224.
Westlaw Topic No. 209.

§ 4-103. Violations

A. Any employee of the Muscogee (Creek) Nation or entity under the jurisdiction of the Muscogee (Creek) Nation found to be in violation of this subchapter shall be terminated immediately.

B. Any officer of the Muscogee (Creek) Nation found to be in violation of this subchapter shall be subject to removal as defined by the Constitution and laws of the Muscogee (Creek) Nation.

[NCA 89-04, §§ 103, 104, veto overridden Feb. 25, 1989.]

Library References

Indians ☞224.
Westlaw Topic No. 209.

CHAPTER 5. OPEN MEETINGS

Section

- 5-101. Tribal meetings to be public.
- 5-102. Executive sessions.
- 5-103. Exempt meetings.
- 5-104. Public notice.
- 5-105. Violations.

§ 5-101. Tribal meetings to be public

All meetings of a legislative body, or of an administrative body, board, commission, committee, subcommittee, authority, or any of its political subdivisions, including but not limited to chartered Indian communities, and all other boards, agencies, assemblies, council, departments, commissions, or organizations, advisory or otherwise, of the Creek Nation, district, or communities supported in whole or in part by Tribal monies or authorized to spend Tribal monies, are open to Creek citizens except for as otherwise provided by this chapter. The vote shall be taken in such a manner that Creek citizens may know the vote of each person entitled to vote.

[NCA 88-89, § 102, approved Nov. 10, 1989.]

Library References

- | | |
|--|---|
| Administrative Law and Procedure ¶124. | C.J.S. Indians §§ 151 to 179. |
| Indians ¶410. | C.J.S. Public Administrative Law and Procedure §§ 32 to 35. |
| Westlaw Topic Nos. 15A, 209. | |

§ 5-102. Executive sessions

A. If excepted subjects are to be discussed at a meeting or session, the meeting or session must first be convened as a public meeting and the question of holding an executive session to discuss matters that come within the exceptions contained in subsection B of this section shall be determined by a majority vote of the body. No subjects may be considered at the executive session except those mentioned in the main motion calling for the executive session unless auxiliary to the main question. No action may be taken at the Executive session.

B. The following excepted subjects may be discussed in an executive session:

1. Matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the government unit.
2. Subjects that tend to prejudice the reputation and character of any person, provided, the person may request a public discussion.
3. Matters, which by law, Community Charter, or law are required to be kept confidential.

[NCA 88-89, § 102, approved Nov. 10, 1989.]

Library References

- | | |
|--|---------------|
| Administrative Law and Procedure ¶124. | Indians ¶410. |
|--|---------------|

Title 37, § 5–102

TRIBAL GOVERNMENT

Westlaw Topic Nos. 15A, 209.
C.J.S. Indians §§ 151 to 179.

C.J.S. Public Administrative Law and Procedure §§ 32 to 35.

§ 5–103. Exempt meetings

This chapter does not apply to:

A. Judicial or quasi-judicial bodies when holding a meeting solely to make a decision in an adjudicatory proceeding.

B. Juries.

C. Meetings of a hospital medical staff.

D. Meeting of the governing body or any committee of a hospital when holding a meeting solely to act upon matters of professional qualifications, privileges or discipline.

[NCA 88–89, § 102, approved Nov. 10, 1989.]

Library References

Administrative Law and Procedure ⇨124.
Indians ⇨410.
Westlaw Topic Nos. 15A, 209.

C.J.S. Indians §§ 151 to 179.
C.J.S. Public Administrative Law and Procedure §§ 32 to 35.

§ 5–104. Public notice

Reasonable public notice shall be given for all meetings required to be open under this chapter.

[NCA 88–89, § 102, approved Nov. 10, 1989.]

Library References

Administrative Law and Procedure ⇨124.
Indians ⇨410.
Westlaw Topic Nos. 15A, 209.

C.J.S. Indians §§ 151 to 179.
C.J.S. Public Administrative Law and Procedure §§ 32 to 35.

§ 5–105. Violations

Action taken contrary to this chapter is void.

[NCA 88–89, § 102, approved Nov. 10, 1989.]

Library References

Administrative Law and Procedure ⇨124.
Indians ⇨410.
Westlaw Topic Nos. 15A, 209.

C.J.S. Indians §§ 151 to 179.
C.J.S. Public Administrative Law and Procedure §§ 32 to 35.

CHAPTER 6. POLITICAL PRESSURE

Section

- 6-101. Requiring Tribal employee or officer to make political contribution.
- 6-102. Requiring Tribal employee or officer to take part in political campaign.
- 6-103. Attempting to cause Tribal employee or officer to put political pressure on others.
- 6-104. Requiring political participation as condition for receiving Tribal benefits or services.
- 6-105. Housing Authority an agency or authority for purposes of chapter.
- 6-106. Use of Tribal property for political campaign purposes.
- 6-107. Use of Tribally compensated time for political participation.

Historical and Statutory Notes

NCA 91-71, §§ 101, 102, provide:

“Section 101. Findings:

“A. There is a need for a law of the Muscogee (Creek) Nation to prohibit the coercion and intimidation of employees to make political contributions and to actively support candidates.

“B. Citizens need protection from political harassment and coercion while receiving benefits and services from the Muscogee Nation.

“Section 102. The purpose of this act is to establish a policy:

“A. That employees of the Muscogee (Creek) Nation, its agencies, authorities and boards or other entities, should not be required to partici-

pate in or contribute to a political campaign as a condition of employment, and

“B. To prohibit any interference in the right of an employee to vote for the candidate of his or her choice; and

“C. To prohibit all employees and officers of the Muscogee (Creek) Nation or its agencies, authorities and boards from using their positions of power or authority to influence or attempt to influence any citizen into believing that the citizen or a relative of that citizen might lose some right or entitlement as a citizen or that they might be otherwise harassed by such employee or officer for failing to support any certain candidate or slate of candidates for public office.”

§ 6-101. Requiring Tribal employee or officer to make political contribution

An employee or officer of the Muscogee (Creek) Nation or its agencies, authorities or boards, who shall use his or her position or authority to require or attempt to require another employee or officer to contribute any money or thing of value, directly or indirectly, to any political campaign or to any candidate for public office in the Muscogee (Creek) Nation shall be guilty of a misdemeanor, punishable by confinement in jail for a period not to exceed sixty (60) days, or a fine of not more than five thousand dollars (\$5,000), or by both such confinement and fine.

[NCA 91-71, § 103, (returned unsigned).]

Library References

Indians ⇨216, 224, 623, 624.

Westlaw Topic No. 209.

C.J.S. Indians §§ 59, 151 to 179.

§ 6-102. Requiring Tribal employee or officer to take part in political campaign

An employee or officer of the Muscogee (Creek) Nation, its agencies, authorities or boards, who shall use his or her position of authority to require another employee or officer to take part in a political campaign or in any way be active or participate in any political contest or any election in the Muscogee (Creek)

Nation shall be guilty of a misdemeanor, punishable by confinement in jail for a period not to exceed sixty (60) days, or a fine of not more than five thousand dollars (\$5,000), or by both such confinement and fine.

[NCA 91-71, § 104, (returned unsigned).]

Library References

Indians ⇨216, 224, 623, 624.
Westlaw Topic No. 209.
C.J.S. Indians §§ 59, 151 to 179.

§ 6-103. Attempting to cause Tribal employee or officer to put political pressure on others

Any employee or officer of the Muscogee (Creek) Nation, its agencies, authorities or boards, who attempts to cause another employee or officer to violate the provisions of this chapter shall be guilty of a misdemeanor, punishable by confinement in jail for a period not to exceed sixty (60) days, or a fine of not more than five thousand dollars (\$5,000), or by both such confinement and fine.

[NCA 91-71, § 105, (returned unsigned).]

Library References

Indians ⇨216, 224, 623, 624.
Westlaw Topic No. 209.
C.J.S. Indians §§ 59, 151 to 179.

§ 6-104. Requiring political participation as condition for receiving Tribal benefits or services

Any person who coerces, intimidates or otherwise threatens any citizen in such a way as to require that citizen to contribute any money or thing of value, directly or indirectly, to any candidate for public office in the Muscogee (Creek) Nation, or to participate in any political contest or any election in the Muscogee (Creek) Nation, or to vote for a particular candidate as a condition to receiving or continuing to receive any benefit or service from the Muscogee (Creek) Nation, shall be guilty of a misdemeanor, punishable by confinement in jail for a period not to exceed sixty (60) days, or a fine of not more than five thousand dollars (\$5,000), or by both such confinement and fine.

[NCA 91-71, § 106, (returned unsigned).]

Library References

Indians ⇨216, 224, 623, 624.
Westlaw Topic No. 209.
C.J.S. Indians §§ 59, 151 to 179.

§ 6-105. Housing Authority an agency or authority for purposes of chapter

For the purposes of this chapter the Housing Authority of the Creek Nation of Oklahoma is an agency or authority of the Muscogee (Creek) Nation.

[NCA 91-71, § 107, (returned unsigned).]

Library References

Indians ↻227.
Westlaw Topic No. 209.
C.J.S. Indians § 76.

§ 6–106. Use of Tribal property for political campaign purposes

Any person who uses or causes to be used any equipment, supplies or other property of the Muscogee (Creek) Nation, its agencies, authorities or boards, for political campaign purposes to support any candidate, shall be guilty of a misdemeanor, punishable by confinement in jail for a period not to exceed sixty (60) days, or a fine of not more than five thousand dollars (\$5,000), or by both such confinement and fine.

[NCA 91–71, § 108, (returned unsigned).]

Library References

Indians ↻216, 224, 623, 624.
Westlaw Topic No. 209.
C.J.S. Indians §§ 59, 151 to 179.

§ 6–107. Use of Tribally compensated time for political participation

An employee or officer of the Muscogee (Creek) Nation, its agencies, authorities or boards, who uses time, for which he is compensated as such employee or officer, to participate in, be active in or in any way contribute any service to a political candidate or campaign shall be guilty of a misdemeanor, punishable by confinement in jail for a period not to exceed sixty (60) days, or a fine of not more than five thousand dollars (\$5,000), or by both such confinement and fine.

[NCA 91–71, § 109, (returned unsigned).]

Library References

Indians ↻216, 224, 623, 624.
Westlaw Topic No. 209.
C.J.S. Indians §§ 59, 151 to 179.

CHAPTER 7. DONATIONS

Section

- 7-101. Findings.
- 7-102. Appropriation.
- 7-103. Authorization.
- 7-104. Real property.

§ 7-101. Findings

The National Council finds that individuals, corporations and other entities inquire about making donations to various departments or to the General Treasury of the Muscogee (Creek) Nation for tax purposes; however, there is no mechanism in place to accept the donation for the Nation's use. The purpose of this Act is to authorize the appropriation of funds or other property that have been donated to the Muscogee (Creek) Nation.

[Added by NCA 08-130, § 1, approved Aug. 29, 2008.]

§ 7-102. Appropriation

All donations made by persons or entities to the Muscogee (Creek) Nation shall be appropriated when said donation is accepted by the Principal Chief; provided the Principal Chief may refuse to accept any donation when acceptance is not in the best interest of the Muscogee (Creek) Nation or if the donation is not for a public purpose.

[Added by NCA 08-130, § 1, approved Aug. 29, 2008.]

§ 7-103. Authorization

The National Council hereby authorizes the Principal Chief to utilize the donation as the donor designates; provided the designated use is in compliance with applicable law. In addition, when no designation for use is made, the Principal Chief is authorized to deposit funds in the General Treasury or in the case of personal property forward the property to GSA for determination of distribution of property.

[Added by NCA 08-130, § 1, approved Aug. 29, 2008.]

§ 7-104. Real property

Due to the special requirements of real property, including trust acquisition and title requirements, donations of real property shall require acceptance by enactment of a Tribal Resolution specific to said real property donation.

[Added by NCA 08-130, § 1, approved Aug. 29, 2008.]

CHAPTER 8. RIGHT TO WORK

Section

- 8-101. Applicability.
- 8-102. Participation in labor organization as condition of employment prohibited.
- 8-103. Jurisdiction.
- 8-104. Enforcement.

§ 8-101. Applicability

This law shall apply to:

- (1) all employees of the Muscogee (Creek) Nation, its enterprises, agencies and entities;
- (2) all employees of Chartered Indian Communities;
- (3) all businesses organized under the laws of the Muscogee (Creek) Nation and their employees; and
- (4) all private employers doing business within the Muscogee (Creek) Nation and their employees.

[Added by NCA 09-168, § 2, approved Oct. 8, 2009.]

§ 8-102. Participation in labor organization as condition of employment prohibited

A. As used in this section, “labor organization” means any organization of any kind, or agency or employee representation committee or union, that exists for the purpose, in whole or in part, of dealing with employers concerning wages, rates of pay, hours of work, other conditions of employment, or other forms of compensation.

B. No person shall be required, as a condition of employment or continuation of employment, to:

- 1. Resign or refrain from voluntary membership in; voluntary affiliation with; or voluntary financial support of a labor organization;
- 2. Become or remain a member of a labor organization;
- 3. Pay any dues, fees, assessments, or other charges of any kind or amount to a labor organization;
- 4. Pay to any charity or other third party, in lieu of such payments, any amount equivalent to or pro rata portion of dues, fees, assessments, or other charges regularly required of members of a labor organization; or
- 5. Be recommended, approved, referred, or cleared by or through a labor organization.

C. It shall be unlawful to deduct from the wages, earnings, or compensation of an employee any union dues, fees, assessments, or other charges to be held for, transferred to, or paid over to a labor organization unless the employee has first provided a written order of consent, signed by the employee, authorizing

such deductions. This consent may be changed at any time by the employee under the same notification process.

D. The provisions of this section shall apply to all employment contracts entered into after the effective date of this section and shall apply to any renewal or extension of any existing contract; provided nothing in this section shall alter the “at will jurisdiction” of the Muscogee (Creek) Nation or be construed as a waiver, limited or otherwise, of the sovereign immunity of the Muscogee (Creek) Nation.

[Added by NCA 09–168, § 2, approved Oct. 8, 2009.]

§ 8–103. Jurisdiction

All persons who enter the Muscogee (Creek) Nation shall be deemed to have given consent to the jurisdiction of the Muscogee (Creek) Nation and shall be subject to the provisions of this Title 37, Chapter 8.

A. Registration of labor organizations

1. Every labor organization, defined under Section 7–102(A), wishing to operate on Muscogee (Creek) Nation shall be required to file for the appropriate license or registration for which the business relationship is desired.

2. Every labor organization officer, agent and representative shall be identified and shall comply with the terms, conditions, regulations, fines, taxes and fees established by the appropriate Muscogee (Creek) Nation regulatory body.

B. Licensure

No labor organization shall be granted a license or registered as an approved vendor to conduct business or provide services on the Muscogee (Creek) Nation’s property if any principle or officer has been convicted of a felony.

C. Violations.

It shall be a violation of this law, subject to enforcement in Section 7–104 as well as applicable criminal laws contained in Title 14, for any person to:

1. Represent or act on behalf of a labor organization without a valid license or registration as an approved vendor of the Muscogee (Creek) Nation;

2. Solicit membership for or act as representative of any labor organization with out authority of the labor organization;

3. Make false statements or presentations in an application for a license;

4. Unlawfully seize or occupy any Muscogee (Creek) Nation property during the existence of a labor dispute;

5. Coerce or intimidate any employee in the enjoyment of his/her legal rights; to coerce or intimidate any elected or appointed Tribal official; or to intimidate the family, picket the domicile or injure the person or property of any employee or Tribal official; or

6. Engage in picketing in any manner which constitutes a Tribal offense, including picketing in a manner to prevent ingress or egress from any premise, and picketing other than in a reasonable and peaceful manner.

[Added by NCA 09–168, § 2, approved Oct. 8, 2009.]

§ 8-104. Enforcement

Any contract or agreement entered into by any employer which violates Section 7-102 shall be void ab initio. Any union or other labor organization which seeks to include such a provision in a labor agreement and any employer, other than the Muscogee (Creek) Nation or its entities or agencies, who agrees to such provision shall be subject to a civil penalty of not less than five hundred dollars (\$500.00) and not more than five thousand dollars (\$5000.00) in addition to any other damages, compensatory or punitive, which may be awarded in the Muscogee (Creek) Nation District Court. All fines shall be payable directly to the Muscogee (Creek) Nation General Treasury. Furthermore, any employee or individual Tribal member shall have standing to bring an action in the Muscogee (Creek) Nation District Court seeking an injunction, mandamus or specific performance under this law.

[Added by NCA 09-168, § 2, approved Oct. 8, 2009.]