

TO AMEND THE CHOCTAW NATION OF OKLAHOMA CODE OF ETHICS

IN THE TRIBAL COUNCIL OF THE CHOCTAW NATION

RONALD PERRY INTRODUCED THE FOLLOWING COUNCIL BILL

A COUNCIL BILL

TO AMEND the Choctaw Nation of Oklahoma Code of Ethics hereby incorporating and adopting all proposed changes to the Choctaw Nation of Oklahoma Code of Ethics.

WHEREAS, Article IX, Section 4 of the Constitution of the Choctaw Nation of Oklahoma (the "Nation") provides that the Tribal Council (the "Council") shall enact legislation, rules and regulations not inconsistent with the Constitution for the general good of the Choctaw Nation and for the administration and regulation of the affairs of the Choctaw Nation;

WHEREAS, on May 12, 2018 this Council enacted the Code of Ethics for the Executive and Legislative Departments of the Choctaw Nation of Oklahoma (the "Former Code of Ethics") in CB-104-18;

WHEREAS, on February 7, 2020 this Council amended the Former Code of Ethics whereby it incorporated and adopted all proposed changes, which included renaming the Former Code of Ethics to The Choctaw Nation of Oklahoma Code of Ethics (the "Renamed Former Code of Ethics") in CB-48-20;

WHEREAS, these amendments, as recommended by the Ethics Commission, include granting the Ethics Commission to authority to administer oaths and to amend the reporting requirements to the Ethics Commission;

WHEREAS, this Council now finds it is in the best interest of the Nation to amend the Renamed Former Code of Ethics by incorporating and adopting all proposed changes in Exhibit A entitled "The Choctaw Nation of Oklahoma Code of Ethics." See Exhibit A.

THEREFORE BE IT ENACTED by the Council that this Bill be cited as approval to amend The Choctaw Nation of Oklahoma Code of Ethics, as amended in Exhibit A.

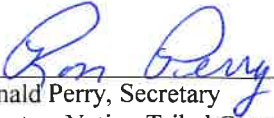
BE IT FURTHER ENACTED, by the Council that this Bill be cited as approval to amend the former Code of Ethics for the Executive and Legislative Departments of the Choctaw Nation of Oklahoma, approved in CB-104-18 and subsequently amended by the renamed Choctaw Nation of Oklahoma Code of Ethics in CB-48-20, by incorporating and adopting all proposed changes as amended in Exhibit A.

BE IT FURTHER ENACTED, by the Council that this Bill be cited as approval to enact and adopt the Choctaw Nation of Oklahoma Code of Ethics as amended in Exhibit A.

CERTIFICATION


I, the undersigned, as speaker of the Tribal Council of the Choctaw Nation of Oklahoma, do hereby certify that the Tribal Council is composed of twelve (12) seats. Eight (8) members must be present to constitute a quorum. I further certify that eleven (11) members answered roll call and that a quorum was present at the Regular Session of the Tribal Council at Tuskahoma, Oklahoma on April 10, 2021. I further certify that the foregoing Council Bill CB-55-21 was adopted at such meeting by the affirmative vote of eleven (11) members, zero (0) negative votes, and zero (0) abstaining.

TO AMEND THE CHOCTAW NATION OF OKLAHOMA CODE OF ETHICS



Ronald Perry, Secretary
Choctaw Nation Tribal Council

Date 4-13-21


Thomas Williston, Speaker
Choctaw Nation Tribal Council
Gary Batton, Chief
Choctaw Nation of Oklahoma

TO AMEND THE CHOCTAW NATION OF OKLAHOMA CODE OF ETHICS

Purpose/Need of Council Bill: To amend the Choctaw Nation of Oklahoma Code of Ethics.

Title of Council Bill: TO AMEND THE Choctaw Nation of Oklahoma Code of Ethics.

Agency: Ethics Commission

Budget: NA

Match Required: NA.

Request by Project Director: NA

Choctaw Nation of Oklahoma Code of Ethics
(revised)

Chapter 1 General

Section 1. Purpose

As leaders of the Choctaw Nation of Oklahoma, the Chief, Assistant Chief and Tribal Council Members will represent the citizens by acknowledging the values of Faith, Family and Culture. The citizens of the Choctaw Nation of Oklahoma are entitled to have confidence in the loyalty and integrity of their Executive and Legislative Departments. To that end, the purpose of this Code of Ethics is to establish standards for the ethical conduct and behavior of the Covered Officials. This Code seeks to require accountability to the Nation by the Covered Officials in discharging the authority vested with them. It is the intention of the Tribal Council that the Covered Officials be bound by the provisions of this Code. This Code is to be construed and applied in each instance, so as to accomplish its purpose of protecting the Choctaw Nation of Oklahoma and its citizens from government decisions and actions resulting from, or affected by, undue influence or Conflict of Interest.

Section 2. Definitions

As used in the Code of Ethics for the Executive and Legislative Departments of the Choctaw Nation of Oklahoma:

1. "Associated Business" includes any Business in which the person is a director, officer, partner, trustee or Employee, holds any position of management or receives Compensation or Income in any form such as wages, commissions, investment Income, or any Income from a Business in which the person, individually or through any other entity, has any ownership, investment, security or other Economic Interest in said Business.

2. “Business” means any enterprise, organization, trade, occupation or profession whether or not operated as a legal entity for profit, including any Business, trust, holding company, corporation, partnership, limited liability company, joint venture, sole proprietorship or other enterprise.

3. “Censure” means a public or private statement issued by the Ethics Commission which finds that a Covered Official has violated this Code and that the Commission disapproves of the Covered Official’s action.

4. “Code” means this Code of Ethics for the Executive and Legislative Departments of the Choctaw Nation of Oklahoma.

5. “Compensation” or “Income” means any money or value received, or to be received, in return for goods or services, whether in the form of a fee, salary, expense, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain or any other form of recompense or any combination thereof.

6. “Confidential Information” means information which, by law or practice, is not available to the public at large.

7. “Conflict of Interest” exists when a Covered Official’s private interest conflicts with official responsibility. A Conflict of Interest involves any act or omission by a Covered Official in the discharge of official duty which would affect the Covered Official’s Economic Interest or those of an Immediate Family member or any Associated Business with which the Covered Official or an Immediate Family member is involved in a manner which benefits the Covered Official over the interest of the Nation.

8. “Constitution” means the Constitution of the Choctaw Nation of Oklahoma.

9. “Covered Official” means the Chief, Assistant Chief, and Tribal Council Members.

10. “Dependent” means a relative, such as a child or parent, for whom a Tribal Council Member or spouse provides more than one-half (1/2) of the relative’s support during the calendar year;

11. “Economic Interest” means an interest held by a Covered Official, the Covered Official’s spouse or Dependent, or an Associated Business which is:

a) any ownership, Compensation or Income, investment, security or other beneficial interest in a Business; or

b) any Employment or prospective Employment.

12. “Employee” means any person, Business or entity performing any act for another person, Business or entity in return for Compensation or Income, at any time temporarily, permanently, or indefinitely in any capacity whether as agent, servant, representative, consultant, advisor, independent contractor or otherwise.

13. “Employment” means the status or relationship existing or created by and between a person designated or acting as an Employee and the person, organization, group or other entity for whom or on whose behalf any such work, acts, services or other benefit has been, is being, or will be rendered or performed for pay or any other form of Compensation or Income.

14. “Ethics Commission” means Ethics Commission of the Nation.

15. “Gift” includes any gratuity, favor, hospitality, payment, loan, economic opportunity, deposit of money, service, or other benefit received in excess of Two Hundred Dollars (\$200.00) or the aggregate value of Two Hundred Dollars (\$200.00) or more from the same source without equivalent consideration and not extended or provided to all citizens of the Nation.

16. “Immediate Family” means a spouse, son, daughter, step-son, step-daughter, father, grandfather, step-father, father-in-law, mother, grandmother, step-mother, mother-in-law, brother, step-brother, brother-in-law, sister, step-sister,

sister-in-law, child, stepchild, son-in-law, daughter-in-law, aunt, niece, uncle, nephew, first cousin and second cousin.

17. “Nation” means the Choctaw Nation of Oklahoma.

18. “Pecuniary Benefit” means benefit in the form of money, property, commercial interests or anything else the primary significance of which is economic or financial gain.

19. “Recusal or “Recuse” means an act by a Covered Official to avoid a Conflict of Interest by excusing himself or herself from functions, meetings, or other events generally required to fulfill the duty of office.

20. “Respondent” means a Covered Official who has been accused of violation of the Code of Ethics in a Complaint;

21. “Tribal Court” means the Constitutional Court of the Choctaw Nation of Oklahoma.

Chapter 2 Fiduciary Duties

Section 1. Generally

Covered Officials shall at all times conduct themselves in an honesty in fact manner, with regard for the responsibility they bear in their official capacities. Covered Officials shall remain objective in the performance of their duty and shall act in the best interests of the Nation. Covered Officials shall not accept any Pecuniary Benefit, other than those granted by the Nation through official action, which may affect a Covered Official’s ability to remain objective in the performance of his or her duty.

Section 2. Procurement Policy

Procurement of goods and services for the Nation must be conducted in an open and competitive environment pursuant to the Nation’s procurement policy.

Section 3. Illicit Conduct

A Covered Official shall not advocate, discuss, or vote on any motion, resolution, council resolution or bill, or render any executive opinion or policy which financially benefits the Economic Interest or Associated Business of the Covered Official.

Section 4. Recusal

When appropriate, a Covered Official shall Recuse from performing any act of official duty to avoid a Conflict of Interest. A Recusal in this instance shall not be considered a neglect of official duty.

Chapter 3 Conflict of Interest

Section 1. Prohibition of Pecuniary Benefits

Covered Officials shall not receive a Pecuniary Benefit as a result of their position, other than those benefits officially provided by the Nation.

Section 2. Disclosures Required

Covered Officials shall disclose pursuant to Section 3 of this Chapter any of the following interests:

1. Employment;
2. Associated Business; and
3. Economic Interest.

Section 3. Reporting Conflicts of Interests; Filing Disclosures

A. Covered Officials shall annually, on or before July 1, file a report with the Ethics Commission, on a form provided by the Commission, of all interests which might create a conflict of interest with their official duties.

B. Disclosure shall be made to the Ethics Commission within thirty (30) days of the time the Covered Official acquires or learns of an interest described in Section 2 of this Chapter by mail to the Secretary of the Ethics Commission. This disclosure shall be on a form provided by the Ethics Commission and shall identify the Employment, Associated Business, or Economic Interest of the Covered Official.

Section 4. Prohibited Conduct

Covered Officials shall not:

1. Make personal investments in any Business that will create a conflict with their duty;
2. Use their position to obtain Employment or Business in or for the Nation or its Businesses for themselves, members of their Immediate Family, or any Associated Businesses;
3. Enter into arrangements with individuals or Businesses for Compensation or Income in matters that are before the Executive or Legislative Departments;
4. Transfer any Pecuniary Benefit provided by the Nation in a manner that affords the Covered Official, Immediate Family, or Associated Business with any Pecuniary Benefit or Economic Interest.
5. Participate in the selection or in the award or administration of a contract, Business or Employment, or grant award of funds from any Nation agency, if a Conflict of Interest exist.

Section 5. Waiver of a Conflict of Interest

A Covered Official may seek a waiver of the Conflict of Interest:

1. by submitting a signed, written application for a waiver of Conflict of Interest to the Ethics Commission; or

2. if any Associated Business with which the Covered Official or the Immediate Family of a Covered Official is involved follows the open and competitive procedures pursuant to the Nation's procurement policy.

Chapter 4 Abuse of Power

Section 1. Benefits from Abuses of Power

No Covered Official shall seek in any manner to benefit from any contract, job, work, or service for the Nation, or accept any service or thing of value, directly or indirectly, upon more favorable terms than those granted to all citizens of the Nation from any person, firm, or corporation having dealings with the Nation.

Section 2. Abusing Official Influence

No Covered Official shall seek to use his or her official influence to assist any person for a fee or other Compensation or Income. The receipt of normal and customary tribal benefits does not constitute an abuse of power.

Section 3. Access to Information

No Covered Official shall use his or her position to access information, documents, or other materials which are not available to all citizens of the Nation generally, unless such access is necessitated by a Covered Official's position with the Nation.

Section 4. Retaliation Prohibited

No Covered Official may retaliate against any person who files a complaint or provides evidence in support of a complaint under this Code.

Chapter 5 Confidential Information

No Covered Official shall disclose Confidential Information which he or she has acquired by reason of his or her role as a Covered Official.

Chapter 6 Gifts

Section 1. Refusing Gifts

A Covered Official shall not accept a Gift:

1. From a person seeking to obtain a contract, grant, loan, Employment, or any financial relationship from or with the Nation;
2. From a person or Business having a financial relationship with the Nation;
3. From a person or Business whose operation or activity is regulated or inspected by the Nation;
4. From a principal or attorney in proceedings in which the Nation is an adverse party;
5. From any person or Business where the performance or nonperformance of any official duty may be affected or influenced.

Section 2. Exceptions

The following are exceptions to Section 1 of this Chapter:

1. Acceptance of a nonmonetary award for meritorious achievement from a charitable, religious, professional, recreational, social, fraternal, public service, or civic organization;
2. Acceptance of a plaque or memento of nominal value offered as a token of esteem or appreciation on the occasion of a speech or public appearance;

3. Small tokens or favors given to everyone attending a function or celebrating an occasion;

4. Traditional cultural Gifts, such as feathers, pouches and blankets.

Chapter 7 Use of the Property of the Nation

Covered Officials shall not use, waste, request, or permit the use or waste of the Nation's motor vehicles, airplanes, equipment, materials, supplies, or property, except for the conduct of official Business or with proper authorization.

Chapter 8 Ethics Commission

Section 1. Formation

The Ethics Committee empaneled following the passage of this Code hereafter be known as the Ethics Commission. Any reference to the Ethics Committee shall be considered a reference to the Ethics Commission.

Section 2. Duration

The Ethics Commission members shall serve 4-year, staggered terms. The second appointment from each Department shall serve only a two-year term for the first term, then 4-year terms thereafter.

Section 3. Composition

The Ethics Commission shall be made up of five (5) citizens of the Nation.

Section 4. Selection

Two (2) members of the Ethics Commission shall be appointed by the Legislative Department, two (2) of the members shall be appointed by the Executive Department, and one (1) member shall be appointed by the Chief Judge of the Tribal

Court. Once the Ethics Commission is established, it shall elect the Chair of the Commission from among its members.

Section 5. Impartiality

In accordance with the procedures in Chapter 12 of this Code, an Ethics Commission member shall not participate in a matter before the Ethics Commission in the event that the member is unable to render an impartial decision on the matter.

Section 6. Vacancy

A vacancy which occurs because of the disqualification or Recusal of a member of the Ethics Commission may be filled by the Ethics Commission by the appointment of a member *pro tempore*, if necessary, for a quorum. Any person appointed as a member *pro tempore* must be an adult member of the Nation who is not otherwise disqualified from appointment.

Chapter 9 Ethics Violations; Ethics Hearings; Penalties and Consequences

Section 1. Procedures; Confidentiality

Ethics hearings shall be conducted in conformance with hearing procedures in Chapter 12 of this Code. All complaints filed and hearings conducted in conformity with this Code shall be protected as confidential.

Section 2. Penalties

Any Covered Official who is found by the Ethics Commission to have violated any of the provisions of this Code or pleads guilty to a violation of this Code may be subject to Censure and/or a fine, not to exceed Five Thousand Dollars (\$5,000.00) per violation, as provided in the hearing procedures. All fines recovered will be deposited into the general fund of the Choctaw Nation of Oklahoma pursuant to Article VII, Section 5 of the Constitution.

Section 3. Complaint; Response; Determination of Hearing

Any citizen of the Nation or Employee of the Nation having knowledge of an ethics violation may file a written complaint with the Ethics Commission. The Respondent shall have 30 days to respond to the complaint after notice from the Ethics Commission. The Ethics Commission, by majority vote, shall determine if a hearing is necessary. If the Ethics Commission determines a hearing is necessary, said hearing shall be held within thirty (30) days of the filing of a response to the complaint or as soon as practical thereafter.

Section 4. Majority Vote

The Ethics Commission shall find an Ethics violation by at least a majority vote.

Section 5. No Immunity from Hearings, Investigations

As this Code directly addresses the integrity of the Nation's leadership, immunity cannot be invoked by any Covered Official to preclude any hearings, investigations, or other action of the Ethics Commission.

Section 6. Generally Available Privileges and Benefits

Nothing in this Code shall be construed to preclude any Covered Official from claiming the benefits and privileges generally enjoyed as a citizen of the Nation.

Chapter 10 Appeals and Judicial Review

Section 1. Appeal from Ethics Commission Findings

Any Covered Official may appeal any findings or rulings by the Ethics Commission to the Tribal Court established by Article VII, Section 1 of the Constitution. The appeal shall be in writing and shall be filed with the Clerk of the Tribal Court within thirty (30) days from the date of any finding or ruling. The Tribal

Court shall establish rules and procedures for any appeal from the Ethics Commission.

Section 2. Judicial Review of Final Orders of the Ethics Commission

A. Judicial review of a final order or decision of the Ethics Commission shall be filed with the District Court within thirty (30) days from the date of the final order or decision.

B. Judicial review shall be *de novo* on the Ethics Commission's record.

C. The record must contain the following:

1. Any Record or Recording of each hearing or other proceeding;
2. All Complaints, Responses, Applications, Summonses, and notices;
3. Any prehearing orders;
4. Any motion, pleading, brief, request, and intermediate ruling;
5. All evidence admitted;
6. A statement of any matter officially noticed;
7. Any proffer of proof and objection and ruling thereon;
8. Any proposed finding, requested order, and exception;
9. Any transcript of any proceeding prepared at the direction of the Ethics Commission;
10. Any recommended order, final order, or order on reconsideration; and

11. Any matter placed in the record by order of the Ethics Commission.

D. An appeal under this Section does not automatically stay a decision or order of the Ethics Commission. An appellant may request the reviewing court to stay the decision or order on the same basis as stays are granted under any other law or rule, and the reviewing court may grant a stay regardless of whether the appellant first sought a stay from the Ethics Commission.

Chapter 11 Applicability

Section 1. Prospective Application

This Code shall apply prospectively from the date of its adoption; however, all Covered Officials shall be required to disclose, within thirty (30) days after enactment of this Code, any existing Conflict of Interest identified in this Code.

Section 2. No Waiver of Sovereign Immunity

Nothing in this Code effectuates a waiver of sovereign immunity by the Nation.

Section 3. Application in Impeachment

Nothing in this Code shall impair, delay and/or prohibit an impeachment proceeding as set forth in the Constitution.

Chapter 12 Ethics Commission Procedures

Section 1. Scope of this Chapter

This Chapter applies to Complaints alleging ethics violations pursuant to Chapter X of the Code of Ethics, and applications for Conflict of Interest waivers pursuant to Section 5 of Chapter IV of the Code of Ethics.

Section 2. Definitions

A. As used in this Chapter, unless the context otherwise requires:

1. “Commission” means the Ethics Commission created by the Code of Ethics;

2. “Complainant” means a person making a Complaint to the Ethics Commission pursuant to Section 6 of this Chapter alleging a violation of the Code of Ethics;

3. “Complaint” means an allegation of a violation of the Code of Ethics made pursuant to this Chapter;

4. “Evidence Code” means the Evidence Code of the Choctaw Nation of Oklahoma;

5. “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation, or other legal or commercial entity;

6. “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

7. “Respondent” means a Covered Official who has been accused of violation of the Code of Ethics in a Complaint; and

8. “Summons” means a form provided by the Ethics Commission which directs the Respondent to file a response with the Ethics Commission within

thirty (30) days (as required by Section 3 of Chapter 9 of the Code of Ethics), and which describes in general terms the Respondent's rights and responsibilities.

B. The definitions contained in Chapter 2 of the Code also apply to this Chapter.

Section 3. Commission Officers

A. At the first regular meeting in January of each year, the members of the Commission shall select a Chair, Vice-Chair, and Secretary from among the members of the Commission.

B. Commission officers shall serve until a successor is appointed and qualified.

C. The Chair shall:

1. Give notice, including an agenda, of regular and special meetings, except as otherwise provided by law; and

2. Preside at all meetings, except as otherwise provided by law.

D. The Vice-Chair shall serve in place of the Chair whenever there is a vacancy in the office of the Chair and whenever the Chair is absent from a meeting.

E. The Secretary shall take, or cause to be taken, the minutes of all meetings of the Commission, and shall preserve, or cause to be preserved, the Records of the Commission.

Section 4. Ethics Commission Staff and Expenses

A. The Commission may employ staff to the extent budgeted by the Tribal Council.

B. Members of the Commission shall receive no salary, but shall be reimbursed for their ordinary travel expenses. Mileage shall be paid according to the then-prevailing United States Internal Revenue Service standard mileage rate.

Section 5. Meetings of the Ethics Commission

A. The agenda for meetings of the Commission shall include, at a minimum, the following:

1. A call to order by the Chair or a designee;
2. A roll call of the members of the Commission;
3. The Pledge of Allegiance to the United States;
4. An invocation by a person selected by the Chair;
5. Approval of the minutes of the previous meeting(s) of the Commission; and
6. Any other matters as determined by the Chair and included in the notice of the meeting.

B. The agenda for each meeting shall be set by the Chair but shall include every item requested by a member of the Commission at least five (5) days before the date of mailing of notice of the meeting.

C. Regular meetings of the Commission shall be held no less than quarterly. The Secretary shall file a notice of the regular meetings for the year with the Chief, the Speaker of the Tribal Council, and with the Editor of the Biskinik or successor publication. The Chair shall give notice of each regular meeting of the Commission as follows:

1. By mailing a copy of the notice and agenda to the members of the Commission at least fourteen (14) days prior to the date set for the regular meeting; and

2. By including a notice of the date, time, and place of the meeting in the Biskinik or successor publication at least fourteen (14) days prior to the date set for the regular meeting.

D. Special meetings of the Commission may be held at the call of the Chair or, in the absence of the Chair, at the call of the Vice-Chair, or, in the absence of the Chair and Vice Chair, by any two (2) members of the Commission, at a time and place and on a date determined by the person or persons calling the meeting by giving notice of the special meeting, including the agenda, as follows:

1. By mailing a copy of the notice and agenda to the members of the Commission at least seven (7) days prior to the date of the special meeting; and

2. By including a notice of the date, time, and place of the special meeting in the Biskinik or successor publication at least seven (7) days prior to the date of the special meeting.

E. Emergency meetings of the Commission may be called by the Chair or, in the absence of the Chair, by the Vice Chair or, in the absence of the Chair and Vice Chair, by any two (2) members of the Commission, at a time and place and on a date determined by the person or persons calling the meeting by giving actual notice to all members of the Commission. An emergency meeting may be called at a time and place and on a date determined by the person or persons calling the meeting without further notice when an emergency is reasonably believed to exist which precludes the giving of additional notice or when a majority of the Commission finds that additional notice would prevent the Commission from taking action necessary to preserve the interests of the Nation.

F. A majority of the members of the Commission shall constitute a quorum.

G. A majority of the members present may adjourn a meeting, and may set the date, time, and place for reconvening the meeting.

H. All votes of the Commission shall be by roll call of the members of the Commission present in person or by other means approved by the Commission.

I. The affirmative vote of a majority of the members of the Commission shall be necessary to take any action, except to adjourn.

Section 6. Complaint Procedures

A. A Complaint may only be filed by the following:

1. A citizen of the Nation, or
2. An Employee of the Nation.

B. All Complaints shall:

1. Be made to the Ethics Commission in a Record;
2. Be signed by a Complainant having actual knowledge of the alleged violation of the Code of Ethics under oath and under penalty of perjury;
3. Describe, to the best ability of the Complainant, the specific act(s) or omission(s) alleged and the provision(s) of the Code of Ethics which are alleged to have been violated;
4. Provide as much detail as the Complainant has about the alleged violation; and
5. Be kept strictly confidential by the Complainant, the Respondent, and the Commission.

C. Within five (5) days following the Commission's decision to proceed with consideration of a Complaint, the Ethics Commission shall attach a Summons(es) to a certified copy(ies) of the Complaint, which together shall be served on each Respondent accused in the Complaint of violating the Code of Ethics.

1. The Summons shall, at a minimum, inform the Respondent of the right and time to file a Response, and the right to counsel at the Respondent's expense.

2. Service of the Summons and Complaint shall be made in one of the following ways:

a. By delivery to the Respondent by a member of the Department of Public Safety of the Nation;

b. By delivery to the Respondent by a person designated by the Ethics Commission;

c. By certified mail, return receipt requested, with delivery restricted to the Respondent; or

d. By private delivery service which is equivalent to certified mail, return receipt requested, with delivery restricted to the Respondent.

Section 7. Response to a Complaint

A. A Respondent may file a Response to a Complaint within thirty (30) days after receipt by the Respondent of a Summons and a certified copy of the Complaint as required by Section 3 of Chapter 9 of this Code.

B. A Response shall admit or deny each allegation in the Complaint, and shall state – in short and plain terms – any defense(s) to each claim in the Complaint.

C. A denial in a Response must fairly respond to the substance of the allegation or some part thereof. A partial denial must admit the part that is true and deny the rest.

D. A Respondent who lacks knowledge or information sufficient to form a belief about the truth of an allegation must so state, and the statement has the effect of a denial.

E. An allegation in a Complaint is denied unless specifically admitted.

F. The Respondent may respond to any or all allegations that he or she will not contest the allegation(s).

Section 8. Applications for Waiver of Conflict of Interest

A. A Covered Official may apply to the Ethics Commission in a Record for a waiver of a Conflict of Interest.

B. An Application pursuant to this Section shall be in a Record and in a form provided or approved by the Ethics Commission.

C. No other person, other than the staff and members of the Commission, may participate as a party to an Application pursuant to this Section unless the Ethics Commission grants a timely motion to intervene.

Section 9. Pre-Hearing Procedures

A. The Ethics Commission shall allow a Respondent an opportunity to file and respond to motions and objections, and may allow the filing of replies and other responses; however, the Commission shall not allow motions or objections to unnecessarily prolong or delay the Commission's consideration. The Commission may give Respondents the opportunity to file and respond to briefs, proposed findings of fact and conclusions of law, and proposed recommended, initial, or final orders.

B. Pre-Hearing motions and other matters may be presented to the Chair of the Commission and may be referred by the Chair to one or more members of the Commission for hearing and recommendation or determination.

C. Consideration of pre-hearing motions and other matters may be by telephone, video, or other electronic conferencing means, but shall be closed to the public. If witnesses are to appear, such proceedings may utilize a method by which the witnesses may not be seen only if the Respondent(s) consent or the Ethics Commission finds that the method will not impair reliable determination of the credibility of testimony. Each party must be given an opportunity to attend, hear, and be heard, at the proceeding as it occurs.

D. A Respondent, the prosecutor or staff of the Commission, or the Commission may request that a record of a pre-hearing proceeding be made at that party's expense. The Commission may grant or deny such a request.

Section 10. Hearings

A. A Complaint or an Application under this Chapter, shall be set for hearing within thirty (30) days after the date for filing a response to the Complaint set by the Ethics Commission, only if the Commission determines, by a majority vote of its members, that a hearing is necessary.

B. A hearing is required in order for the Ethics Commission:

1. To find any violation of the Code of Ethics; or
2. To grant or deny an application for a waiver of a Conflict of Interest.

C. The Office of the General Counsel or its designee shall provide legal advice and representation to the Commission. At its discretion, the Office of General Counsel may engage other legal representation for the Commission.

D. Hearings and deliberations of the Ethics Commission may be continued from day-to-day or until a date set by the Ethics Commission.

E. The Choctaw Nation Evidence Code shall apply in any hearings or pre-hearing proceedings commenced pursuant to this Section.

F. All hearings under this Chapter shall be closed to the public.

G. Deliberations of the Ethics Commission shall be in private. The Ethics Commission may only find a violation of the Code of Ethics by a majority vote of the members of the Commission.

H. The Ethics Commission shall provide for a stenographic record of the proceedings on a Complaint at the request of a Respondent or on its own motion.

I. The Ethics Commission may, by majority vote of the Commission, make other determinations concerning the procedure(s) to be followed and issue other orders consistent with this Code.

J. The Secretary of the Ethics Commission or a designee shall issue a subpoena for the attendance of a witness, for the production of books, records, and other evidence, or both, to the prosecutor or Respondent to a Complaint or Applicant for a waiver on a showing of general relevance and reasonable scope of the evidence sought for use at a hearing. A subpoena issued by the Ethics Commission may be enforced or quashed in the manner provided by law for subpoenas in a civil action. Witness fees and costs shall be paid by the party requesting the subpoena in the same manner as provided for in a civil action.

K. Members of the Ethics Commission shall have the authority to administer oaths and affirmations for the purposes of receiving sworn testimony, written or verbal, at a hearing or other official deliberation of the Ethics Commission.

Section 11. Recusal and Disqualification of Members of the Ethics Commission

A. Members of the Ethics Commission shall Recuse from participation in any case in which the member is unable to render an impartial decision.

B. A member of the Ethics Commission is subject to disqualification for bias, prejudice, financial interest, *ex parte* communications, or any other factor that would cause a reasonable person to question the impartiality of the member. A member, after making a reasonable inquiry, shall disclose to the parties any known facts related to grounds for disqualification which are material to the impartiality of the member in the proceeding.

C. A prosecutor or Respondent may request the disqualification of a member of the Ethics Commission promptly after discovery of a ground(s) for disqualification. The request must state with particularity the ground(s) on which it is claimed that a fair and impartial hearing cannot be accorded or the applicable canon of practice or ethics that requires disqualification. The request may be denied if the party fails to exercise due diligence in requesting disqualification after discovering a ground(s) for disqualification.

D. The Ethics Commission shall determine whether a member may be disqualified by majority vote of the members of the Ethics Commission. The member of the Commission whose disqualification is requested shall not participate in the vote.

E. If the request for disqualification is of the Chair, the Vice-Chair or another member of the Ethics Commission shall preside during consideration of and voting on the request.

Section 12. *Ex Parte* Communications with Members of the Ethics Commission

A. While a Complaint is pending, no member of the Ethics Commission may make or receive any communication concerning the matter. For the purposes of this Section, with regard to communications by the Ethics Commission or its staff or counsel or an Applicant for a waiver of a Conflict of Interest, a Complaint or Application is pending from the time it is filed, and with regard to communications by a Respondent, a Complaint is pending from the time it is served.

B. Members of the Ethics Commission may not communicate with other members of the Ethics Commission about any pending Complaint or Application, except as part of the deliberations and decision of any prehearing, hearing, or final decision or order.

Section 13. Decisions and Orders

A. Any decision of the Ethics Commission on a Complaint under this Chapter shall be based on the hearing record and contain a statement of the factual and legal bases of the decision.

B. All decisions and orders of the Ethics Commission shall be in writing and filed with the Secretary of the Commission, and may be made available in a Record.

C. All decisions and orders of the Ethics Commission shall be confidential unless the prosecutor and Respondent request or the Commission orders otherwise.

D. All decisions and orders of the Ethics Commission shall be served on all parties to a Complaint or Application at his or her last known address.

E. All final decisions and orders must state the available procedures and time limits for seeking reconsideration, modification, vacation, or judicial review. A motion for reconsideration, modification, or other post-decision relief other than judicial review must be filed within ten (10) days after the date of filing of the final order with the Secretary of the Commission. If a motion is filed, the time for seeking judicial review shall begin on the date of the filing of the order of the Commission disposing of the motion.

F. No motion for reconsideration, modification, vacation, or other post-decision relief shall be required prior to seeking judicial review of the final order.

G. All decisions and orders of the Ethics Commission, once final, shall be compiled with the record of the proceedings, sealed, and the originals delivered to the Clerk of the Tribal Court within ten (10) days.