

TABLED

CHEROKEE COUNCIL HOUSE
CHEROKEE, NORTH CAROLINA

Date: NOV 07 2024

ORDINANCE NO.: 333 (2024)

An ordinance section 117-45 Standards of ethical conduct

WHEREAS, the Eastern Band of Cherokee Indians adopted the Standards of Ethical Conduct for Tribal officials in Cherokee Code § 117-45; and

WHEREAS, the Ethics Review Committee and the Audit and Ethics Committee conducted a comprehensive review of the Standards of Ethical Conduct and is proposing changes for clarity and to allow for more effective enforcement and compliance.

NOW THEREFORE BE IT ORDAINED, by the Tribal Council of the Eastern Band of Cherokee Indians, in Council assembled at which a quorum is present, that Cherokee Code § 117-45 shall be amended as follows:

Sec. 117-45. Standards of ethical conduct.

Sec. 117-45.1. Definitions.

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

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

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

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

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

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

4 (4) *Conflict of interest.* A conflict of interest shall be deemed to arise when ~~the elected or appointed a Tribal~~
5 official, ~~or executive staff employee~~ or any member of their immediate family, or an organization or firm
6 which employs such ~~Tribal official, executive staff employee~~ or family member, has a financial or
7 ~~other personal~~ interest ~~in the firm or person selected for the contract or grant award that interferes with, or~~
8 ~~appears to interfere with, fair and impartial decisions or actions by a Tribal official.~~

9 (5) ~~Immediate family shall be defined as spouse, parent, child or brother or sister. Recuse. Recuse or recusal is~~
10 ~~the act of a Tribal official to avoid a conflict of interest by excusing themselves from meetings, discussions,~~
11 ~~events and/or votes.~~

12 (6) ~~EBCI refers to the Eastern Band of Cherokee Indians and Tribe. Immediate family. Shall be defined as~~
13 ~~spouse, parent, child or brother or sister.~~

14 (7) ~~EBCI. Refers to the Eastern Band of Cherokee Indians and Tribe.~~

15 **Sec. 117-45.2. Purpose and applicability.**

16 (a) It is the policy of the Eastern Band of Cherokee Indians that high moral and ethical standards among the
17 ~~elected Tribal officials, appointed officials, and executive staff employees~~ are necessary in order to
18 eliminate conflicts of interest in Tribal offices, improve standards of Tribal service, preserve the sacred
19 public trust, and promote and strengthen the faith and confidence of the members of the EBCI in their
20 government. This Code of Ethics is to provide a mechanism whereby the Tribe may hold such officials
21 accountable for their conduct in performing the duties and responsibilities of their Tribal office.

22 **Sec. 117-45.3. Code of Ethics.**

23 (a) ~~No Tribal officials of the Eastern Band of Cherokee Indians~~ shall not take any official action or participate
24 in the selection, ~~or in the~~ award, or administration of a contract or grant award, if a conflict of interest, real
25 or apparent, shall be involved.

26 (b) ~~No Tribal officials or any member of their immediate family~~ shall not directly or indirectly solicit, ~~or~~ accept,
27 or provide gratuities, favors, or anything of monetary value from contractors, potential contractors or
28 subcontractors who are contracting to perform services or sell goods or property to the Tribe or a Tribal
29 program.

30 (c) ~~No Tribal officials,~~ directly or through a business entity in which the Tribal official has a personal interest,
31 shall not enter into any contract for services or goods with any Tribal entity, enterprise, or program for the
32 purpose of either receiving or providing services or goods. This provision shall not apply to such persons
33 qualifying for ~~housing benefits from the Qualla Housing Authority or for medical benefits from the Indian~~
34 ~~Health Service or other~~ programs available to all Tribal members.

35 (d) ~~The following represents the very minimum standards of conduct on the part of Tribal officials important~~
36 ~~to ensure ethical behavior and maintenance of public trust:~~

37 (1d) Tribal officials ~~of the EBCI~~ shall treat service to the EBCI as a sacred public trust with fiduciary responsibility
38 ~~to the EBCI,~~ which requires upholding and acting in accordance with ~~the laws of the EBCI~~ and engaging in
39 the proper governance of the EBCI in a manner, which is placed above personal and private gain.

40 (2) ~~Tribal officials of the EBCI shall not allow financial interests to conflict with the conscientious performance~~
41 ~~of obligations inherent in fulfilling the duties and responsibilities associated with their respective offices.~~

42 (3e) Tribal officials ~~of the EBCI~~ shall protect and conserve Tribal resources and ensure the appropriate use of
43 Tribal resources falling under the scope of the office of the Tribal official.

1 (4f) Tribal officials ~~of the EBCI~~ shall provide every enrolled member a time to be heard on a Tribal issue that
2 falls under the scope of the Tribal official's duties. This paragraph shall not supersede C.C. Section 117-16.

3 (5g) Tribal officials ~~of the EBCI~~ shall not use prestige of the office, their authority, title, or influence to
4 improperly advance personal or financial interests ~~of others or themselves~~.

5 (6h) Tribal officials ~~of the EBCI~~ shall disclose instances when they believe there has been fraud, waste, abuse,
6 corruption, or violations of this chapter to the Office of Internal Audit and Ethics.

7 (7i) Tribal officials ~~of the EBCI~~ shall respect and honor the customs and traditions of the EBCI.

8 (8j) Tribal officials ~~of the EBCI~~ shall abide by the laws of any sovereign jurisdiction in which they are present.
9 Tribal officials ~~of the EBCI~~ shall disclose any misdemeanor or felony charges and/or convictions that occur
10 in any jurisdiction while in office to the Office of Internal Audit and Ethics.

11 (9k) Tribal officials shall report to the Office of Internal Audit and Ethics, in accordance with that office's rules of
12 procedure. Any gift, donation, or contribution received or provided by a Tribal official, must be
13 reported by the official who received or provided the gift, donation, or contribution to the Office of Internal
14 Audit and Ethics in accordance with that office's rules of procedure.

15 (10l) Tribal officials ~~of the EBCI~~ shall not act individually, jointly, or through another, threaten, intimidate, or
16 discipline any person as reprisal for any legitimate action taken by the person.

17 (11m) Tribal officials ~~of the EBCI~~ shall not offer, solicit or accept, directly or indirectly, anything of value if the gift
18 could reasonably be expected to influence the vote, official actions, or judgment of, or for, the official or
19 could reasonably be considered a reward for any official action or inaction.

20 (12n) Tribal officials ~~of the EBCI~~ shall not withhold materials or information from the public pertaining to those
21 items discussed in closed session unless such materials or information ~~disclosed in closed session~~ are
22 deemed private exempt from disclosure in accordance with Chapter 132 of the Cherokee Code.

23 (13o) ~~No~~ Tribal officials ~~of the EBCI~~ shall not take any official action or participate in a decision with respect to a
24 matter if it will have a direct and predictable effect on the financial interest, personal interest, or present a
25 conflict of interest for the official or employee or his or her immediate family member. Any official in such
26 situation shall recuse himself or herself from participating in a discussion and/or vote on the matter giving
27 rise to such conflict.

28 (14p) Tribal officials ~~of the EBCI~~ may participate in private, public, civic, and/or charitable activities provided
29 such activities do not ~~detract from the dignity of the office~~ compromise the integrity or reputation of the
30 EBCI or interfere with the performance of official duties.

31 (15q) Tribal officials shall maintain or enhance the honesty and integrity of their respective offices; and
32 safeguard the reputation of the EBCI as a whole.

33 (16r) Tribal officials shall protect and enhance the environmental and cultural resources, whether natural or
34 man-made, of the EBCI to ensure the security and prosperity of future generations.

35 **Sec. 117-45.4. Violation consequences.**

36 (a) Failure to meet the minimum requirements described in this section may constitute a violation of this
37 Code of Ethics as determined by the Office of Internal Audit and Ethics as outlined below, until such time
38 as the Office of Government Ethics is established.

39 (b) A violation of Section 117-45.3 as determined at the discretion of the Office of Internal Audit and Ethics is
40 subject to an administrative fine not to exceed \$5,000.00.

41 (c) If the Tribal official fails to remedy the administrative fee within thirty (30) business days of the ethical
42 violation determination, then the debt will be submitted for collection through the appropriate avenue.

1 **Sec. 117-45.5. Limited waivers.**

- 2 (a) In extenuating circumstances, a Tribal official may request a limited waiver from any provision of 117-45.3
3 by submitting a written request to the Office of Internal Audit and Ethics in accordance with that office's
4 rules of procedure. Limited waivers will not be considered after the fact.

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6 BE IT FINALLY ORDAINED that all ordinances that are inconsistent with this ordinance are rescinded, and that
7 this ordinance shall become effective when ratified by the Principal Chief.

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9 *Submitted by Sharon Blankenship, Office of Internal Audit and Ethics, on behalf of the Audit and Ethics Committee.*