

MUSCOGEE (CREEK) NATION

PUBLIC OFFICIALS ETHICS COMMISSION

RULES AND REGULATIONS

(WORKING DRAFT FOR PUBLIC COMMENT)

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Rule 1 – Administration

1. Administration

1.1. Purpose of Ethics Rules.

The purpose of these rules is to fulfill the duties of the Public Officials Ethics Commission as provided by MCNCA Title 37 Chapter 9.

1.2. Purpose of Rule 1.

The purpose of Rule 1 is to set forth the administrative operations necessary to implement these Rules.

1.3. Definition.

As used in Rule 1, “Commission” shall mean the Public Officials Ethics Commission.

1.4. Determination of Timely Filing.

All documents filed with the Commission under these Rules shall be timely filed if filed no later than 4:30 p.m. on the day specified. When the day that a document is required to be filed falls on a day other than a business day, that document shall be timely filed if filed on the next succeeding business day. As used in this section, “business day” shall mean any day on which the Commission is open to conduct business, and “filed” means actually received by the Commission.

1.5. Political Activity of Ethics Commissioners.

A. No member of the Commission, while serving as a member of the Commission, shall:

1. Be a candidate for elected tribal office or hold any other public tribal office;
2. Be employed by any Muscogee (Creek) Nation agency; or
3. Engage in any tribal political activity, except to register and vote, to privately express opinions on political subjects or candidates, to participate in activities of a civic, community, social, labor, religious, or professional organization and to engage in activities that further purposes of the Commission.

B. As used in this section, “political activity” shall mean any activity to support or oppose (1) the election of a candidate for office; or (2) any electoral campaign within the Muscogee (Creek) Nation.

1.6. Ethics Commissioners Disqualification.

A member of the Commission shall disqualify or shall be disqualified by a majority vote of the other members of the Commission, in any matter in which the member’s impartiality might reasonably be questioned.

1.7. Advisory Opinions.

The Commission may issue advisory opinions interpreting the Rules as requested by specific individuals. The Commission shall provide notice of at least thirty (30) days of a hearing on an advisory opinion. At least five (5) days before the hearing, comments and/or draft advisory opinions by Commission employees shall be made available to the public for comment. The Commission shall accept both written and oral comments about the draft advisory opinions and/or comments. Official advisory opinions shall be binding on the Commission. Failure of an individual to request an advisory opinion shall have no relevance in any subsequent proceeding involving that individual. The Commission shall not consider an advisory opinion on an issue that is pending before a court of law or before another agency of the Muscogee (Creek) Nation. Any person with knowledge of such pending matter shall disclose such pending matter to the Commission.

1.8. Ethics Commission Publications and Continuing Education.

The Commission shall prescribe forms, including software or other electronic forms, as required by these Rules and shall prescribe such other publications, including publications in an electronic format, as the Commission deems appropriate to facilitate implementation of and compliance with these Rules. The Commission is authorized to establish and collect fees to be charged to participants for training and educational seminars, classes and similar programs and for related materials. In establishing such registration fees, the Commission shall endeavor to recover costs to the Commission incurred in development and presentation of programs to assist in the implementation of and compliance with these Rules.

1.9. Section Headings.

Section headings in these Rules are intended only for convenience; they are not part of the rules and shall not be interpreted as modifying or changing the meaning of the Rules themselves.

Rule 2 – Campaign Finance

2. Campaign Finance.

2.1. Purpose of Rule 2.

The purpose of Rule 2 is to establish rules of ethical conduct for campaigns for elective tribal office and for campaigns regarding other tribal votes or elections.

2.2. Definitions.

As used in Rule 2:

1. **“Campaign”** means all activities for or against the election of a candidate for elective Tribal office or for or against a ballot question;
2. **“Ballot Question Committee”** means a committee organized with the Muscogee (Creek) Nation Public Officials Ethics Commission, and authorized to accept donations and make expenditures for the sole purpose of advocating in support of or opposition to any ballot question;
3. **“Candidate”** means an individual who has filed or should have filed a statement of organization for a candidate committee for Tribal office with the Commission as required by these Rules;
4. **“Candidate committee”** means the only committee authorized by a candidate to accept contributions or make expenditures on behalf of the candidate’s campaign;
5. **“Clearly identified candidate”** means a candidate whose name, nickname, photograph or drawing appears, or whose identity is otherwise apparent by unambiguous reference;
6. **“Commission”** means the Muscogee Nation Public Officials Ethics Commission;

7. “**Contribution**” means any gift, subscription, loan, guarantee or forgiveness of a loan, conveyance, advance, payment, distribution or deposit of money made to, or anything of value given to, or an expenditure made on behalf of, a committee, but shall not include the value of services provided without compensation by an individual who volunteers those services;
8. “**Electioneering communication**” means any communication or series of communications that is sent by Internet advertising, direct mail, broadcast by radio, television, cable or satellite, or appears in a newspaper or magazine that (a) refers to a clearly identified candidate for Tribal office, (b) that is targeted to the relevant electorate and (c) does not explicitly advocate the election or defeat of any candidate.
9. “**Expenditure**” means a purchase, payment, distribution, loan, advance, compensation, reimbursement, fee, deposit or gift made by a committee or other individual or entity that is used to expressly advocate the election, retention or defeat of one or more clearly identified candidates or for or against a ballot question;
10. “**Family member**” shall include spouse, children (including stepchildren), mother, father, sister or brother;
11. “**Independent expenditure**” means an expenditure made by a person or entity for a communication expressly advocating the election or defeat of a clearly identified candidate that is not made in coordination with, cooperation with, consultation with, or concert with, or at the request or suggestion of, a candidate, a candidate committee, or their agents. An independent expenditure shall not include the display of a noncommercial yard sign, lapel pin, button, bumper sticker or similar de minimis display of support or opposition to a candidate;
12. “**Labor union**” means an organization of workers formed for the purpose of advancing its members’ interests in respect to wages, benefits and working conditions;

13. “**Officeholder expenses**” means ordinary and necessary expenses incurred in connection with a candidate’s duties as the holder of a Tribal elective office, provided that the expenses are not otherwise reimbursed or paid for by the Tribe. “Ordinary and necessary expenses” are those that would not exist but for the fact that the candidate was elected to and holds a Tribal elective office;
14. “**Ballot question communication**” means an expenditure made by a person for a communication or series of communications that is sent by internet advertising, direct mail, broadcast by radio, television, cable or satellite, or appears in a newspaper, magazine, or other printed medium supporting or opposing a ballot question. A ballot question communication shall not include the display of a noncommercial yard sign, lapel pin, button, bumper sticker or similar de minimis display of support or opposition to a ballot question; and
15. “**Ballot question**” means any initiative or referendum petition for which the Chief has issued a proclamation setting the date on which an election shall be held or a referendum referred by the National Council for a vote of the people or any other question that is to appear on the ballot.

2.3. Prohibited Uses of Public Funds for Political Fund-Raising.

No tribal officer or employee shall use or authorize the use of public funds, property or time to solicit, receive or accept funds for a candidate or ballot question campaign, except as permitted by law or these Rules. Any unsolicited funds tendered in violation of this section shall not be accepted by the intended recipient and shall be returned to the sender as soon as possible.

2.4. Prohibited Uses of Public Funds to Influence Elections.

No person shall use or authorize the use of public funds, property or time to engage in activities designed to influence the results of an election for tribal office or ballot question campaign, except as permitted by law or these Rules. This section shall not prohibit an elected tribal officer from expressing his or her opinion or position on any issue.

2.5. Elective Officer Prohibited From Soliciting Contributions from Employees.

No elected tribal officer shall knowingly solicit, directly or indirectly, a contribution to his or her campaign from any tribal officer or employee employed by the elected Tribal officer's agency or any person who works for the elected Tribal officer's agency through a third-party contract.

2.6. Political Fundraising Prohibited on Tribal Property

No person shall solicit or accept any political contribution on the Muscogee (Creek) Tribal Capitol Grounds under any circumstances. No person shall solicit or accept any political contribution in any office or other space owned, leased, or occupied by the Muscogee (Creek) Nation. This does not include college campuses and public meeting rooms, auditoriums, or similar meeting areas that are available for use by the public at large.

2.7. Prohibition on Distribution of Campaign Materials on Tribal Property.

No materials designed to influence the results of an election for tribal office shall be posted in the tribal capitol building or in any office or other space owned, leased or occupied by the Muscogee (Creek) Nation that ordinarily is used for the conduct of official tribal business, except as permitted by law or these Rules. Provided, however, such materials may be posted for a reasonable period of time when tribal facilities are being used for political purposes as provided in these Rules

2.8. Use of Public Property for Political Purposes.

Public meeting rooms, auditoriums, parks, colleges and other educational campuses or similar spaces may be used for political purposes provided (1) if a fee is customarily charged for use of the facility, that fee will be charged for use of the facility for political activities and (2) the facility will be made available upon request to all candidates for the same tribal office or to all supporters or opponents of a ballot question, respectively, all in the order in which the requests were received. Nothing herein shall require that any public facility be made available for political purposes. Nothing herein shall prohibit the use for political purposes of a traditional public forum or other forum required by the United States Constitution to be used for such purposes

2.9. Prohibitions on Activities of Tribal Officers and Employees Designed to Influence Elections.

No tribal officer or employee shall engage in activities designed to influence the results of an election for tribal office or a ballot question during hours in which the tribal officer or employee is in official work status or at any time while wearing a uniform or wearing identification that identifies that person as a tribal officer or employee. This prohibition shall not apply to elected tribal officers.

2.10. Use of Public Facilities for Voter Registration.

Voter registration activities may be conducted in public facilities, provided those activities are not used in any way to encourage registration in or support or to encourage voting for or against any particular candidate or for or against any ballot question

2.11. Newsletters and Informational Materials by Elected Tribal Officers.

If otherwise permitted by law, elected Tribal officers may use public funds, property or time to electronically or otherwise produce and distribute newsletters or similar informational materials to constituents and others, provided those materials do not advocate the election or defeat of a clearly identified candidate or candidates for any elective office or offices or a vote for or against a Ballot question or other question to be voted upon at an election. Permitted uses shall not include recognition of holidays, birthdays, births or similar greetings in the absence of substantial informational materials related to public issues

2.12. Posting of Material by Elected Tribal Officers Indicating Positions on Issues.

If otherwise permitted by law, elected Tribal officers, may use public funds, property or time to post materials in their offices to indicate their opinions or positions on issues, provided these materials do not advocate the election or defeat of a clearly identified candidate for any elective office or a vote for or against a Ballot question or any other question to be voted upon at an election. Mere display of a photograph or similar depiction of a current or former elected federal or Tribal officer, including autographed photographs or similar depictions, shall not be a violation of this section.

2.13. Tribal Employees Maintaining Schedule for Elected Officers.

Tribal employees whose regular duties include scheduling meetings, activities and events for elected Tribal officers shall not be considered to have violated these Rules if,

while on duty, they engage in scheduling political activities or events for an elected Tribal officer.

2.14. Prohibition on Use of Tribal Owned Equipment and Resources for Campaigns.

No Tribal officer or employee shall use a Tribal -owned telephone, Tribal electronic mail or other Tribal equipment, property or services to advocate the election or defeat of a clearly identified candidate for any elective office or a vote for or against a Ballot question or any other question to be voted upon at an election.

2.15. Prohibition on Use of Tribal Owned Equipment to Make a Campaign Contribution.

No Tribal officer or employee shall use a Tribal -owned telephone, Tribal electronic mail or other Tribal equipment, property or services to make a contribution to a candidate or a ballot question campaign.

2.16. Use of Social Media Account by Tribal Officer.

No Internet social-media account maintained in the name of a Tribal officer as a Tribal officer or Tribal agency may be (1) used to solicit, receive or accept funds for a candidate or a ballot question campaign; (2) used to advocate the election or defeat of a clearly identified candidate for any elective office or a vote for or against a ballot question or any other question to be voted upon at an election or (3) converted to use by a candidate or a ballot question campaign.

Contributions

2.17. General Rule for Contributions.

(A) Unless otherwise prohibited or limited by law or these Rules, a contribution to a committee may be made by any individual. A child under the age of eighteen (18) may make a contribution only if the contribution is attributed to his or her parent (or equally between two parents) or guardian.

(B) The name and address shall be required for any individual contributor regardless of amount or value of contribution unless the contribution is an anonymous contribution of less than Fifty Dollars (\$50.00) as provided for in Rule 2.20.

2.18. Contribution in Name of Another.

No contribution shall be made in the name of another.

2.19. Cash Contributions.

No contribution of more than Fifty Dollars (\$50.00) in cash in the aggregate may be made to or accepted by a committee.

2.20. Anonymous Contributions.

No anonymous contribution of more than Fifty Dollars (\$50.00) may be made to or accepted by a committee. Any anonymous contribution of more than Fifty Dollars (\$50.00) received by a committee shall be deposited in the general revenue fund of the Tribe to the extent that the contribution exceeds Fifty Dollars (\$50.00).

2.21. Contribution Deemed Accepted if Not Returned.

A contribution shall be deemed to have been accepted by a committee if it is not returned within ten (10) business days after it has been received by the committee.

2.22. Deposit of Contributions.

A contribution shall be deposited in the account of a committee within ten (10) business days after it has been received by the committee. If a contribution has not been deposited within ten (10) business days after it has been received by the committee, the contribution shall be returned to the contributor and shall be reported as having been accepted and refunded.

2.23. Corporate and Labor Union Contributions Prohibited.

No corporation or labor union may make a contribution to a candidate committee or a ballot question committee, and no committee may accept a contribution from a corporation or labor union, except as permitted by law or these Rules.

2.24. Contributions by Limited Liability Companies.

No limited liability company that has one or more incorporated members may make a contribution to a committee, except as permitted by law or these Rules as follows: A committee, which receives a contribution from a limited liability company is required to report the contribution by attributing the contribution to the individual members of the limited liability company in proportions equal to the individual member's ownership interest in the limited liability company. This includes, but is not limited to, the individual member's name, address, occupation and employer.

2.25. Contributions by Partnerships.

No partnership that has one or more incorporated partners may make a contribution to a committee, except as permitted by law or these Rules as follows: (1) A committee, which receives a contribution from a partnership is required to report the contribution by attributing the contribution to the individual partners of the partnership in proportions equal to the individual partner's ownership interest in the partnership. This includes, but is not limited to, the individual partner's name, address, occupation and employer.

Committee Contribution Limits

2.26. Contributions to Committees.

(A). No person shall make a contribution in excess of Two Thousand Dollars (\$2,000) to any candidate prior to a primary election.

(B). No person shall make a contribution in excess of Two Thousand Dollars (\$2,000) to any candidate prior to a general election.

(C). For purposes of this section, "contribution" shall include multiple contributions, the amounts of which shall be aggregated.

(D). If a candidate files a statement of organization for a candidate committee with the Commission for one tribal office and accepts one or more contributions for that candidate committee, then files a statement of organization for a candidate committee for a different tribal office prior to the filing period for that office, contributions to the two committees shall be aggregated for purpose of maximum contribution amounts for the second candidate committee.

2.27. Candidate Contributions to Own Committee.

No candidate or candidate committee shall receive contributions from any contributor in excess of the limits provided in this Rule. Provided, however, a candidate, or officers of ballot question committees, may contribute an unlimited amount to his or her committee from his or her personal funds or from joint funds of the candidate or officer and his or her spouse. No candidate or candidate committee shall refund contributions of the candidate unless the contribution is a properly executed loan under Rule 2.67 between the candidate, and the candidate committee.

2.28. Personal Use of Contributions Prohibited.

No contributions accepted may be converted by any person to personal use. “Personal use” includes any use of funds to fulfill a commitment, obligation or expense of any person that would exist irrespective of a candidate’s campaign. “Personal use” by a candidate includes, but is not limited to, food purchased for daily consumption in the candidate’s home or supplies needed to maintain the household; clothing (excluding campaign clothing of low monetary value such as T-shirts or caps); mortgage, rent or utility payments for the candidate’s personal residence, even if part of the residence is being used for the campaign; use of a motor vehicle for noncampaign purposes or non-officeholder expenses; interest on a loan made by the candidate or the candidate’s spouse to the campaign; costs of a vacation or other trip not related to the campaign or officeholder expenses; admission to athletic events, concerts, theater or other forms of entertainment (except for events that are part of the campaign); dues in country clubs, health clubs, recreational facilities or other nonpolitical organizations and earnings from investment of contributions other than as permitted by these Rules

2.29. Committee Expenditures.

Contributions to a Committee may be used to make expenditures for ordinary and necessary campaign expenses, for contributions to another Committee (subject to contribution limit), for operating expenses of the committee or for other purposes not otherwise prohibited by law or these Rules. “Ordinary and necessary campaign expenses” as used in this section are those that would not exist but for the candidate’s campaign, including but not limited to staff salaries, campaign consulting fees, rent (other than for the candidate’s residence or part of a residence), travel, advertising, telephones, office supplies and equipment, fundraising, individual memberships in political organizations, individual memberships in civic or charitable organizations, legal fees for the campaign, payment for campaign accounting or bookkeeping services or campaign finance reporting services and repayment of the principal and interest on a loan as permitted by these Rules. Expenditures made to a family member of the candidate for services provided to the campaign shall be no more than customary compensation for those services. Expenditures made to reimburse a candidate for personal expenditures made on behalf of the candidate committee must be made within ninety (90) days of the original expenditure and must be reported.

Surplus Funds

2.30. Committee Surplus Funds.

Surplus funds of a Committee are those funds not otherwise obligated following the election at which the office or question for which the Committee was formed has been determined which, in the candidate's discretion, are not required to be used for campaign expenses or officeholder expenses. Such contributions, and any interest earned on said contributions, not used within twenty-four (24) months of the General Election shall be deposited as follows:

(A). Returned to contributors pursuant to a formula approved by the candidate, as long as the amount returned does not exceed the contributor's aggregate contribution during the immediately preceding primary, runoff primary and general elections; or

(B). Donated to the College of the Muscogee Nation.

Electioneering Communications

2.31. Electioneering Communications by Committees.

A Committee shall not make an electioneering communication for a campaign other than the candidate's or committee's own campaign. If an electioneering communication is made by a committee in the candidate's own campaign, it shall be reported as an expenditure or expenditures.

2.32. Independent Expenditures.

Any expenditure made independently of a committee established with this Commission in an attempt to influence a Muscogee Nation election are prohibited. All Candidates and officers of Ballot Question Committees must, upon learning of any independent expenditure made on their behalf or in opposition to them, report the type of expenditure and the entity making the expenditure, if ascertaining knowledge of the entity making the expenditure is reasonably practicable.

Identification of Funding and Authorized Sources

2.33. Committee Electronic Advertisement Disclosure Requirements.

Whenever a Committee makes an expenditure for the purpose of a communication through any Internet advertising, or video, radio, television, cable or satellite broadcast, the communication shall state, either orally or in writing of sufficient size and contrast to be clearly readable by the recipient of the communication: “Authorized and paid for by NAME OF COMMITTEE”.

2.34. Committee Printed Advertisements Disclosure Requirements.

Whenever a Committee makes an expenditure for the purpose of a communication through Internet advertising, or direct mail, magazine advertisement, newspaper advertisement or any other printed medium, the communication shall state in writing of sufficient size and contrast to be clearly readable by the recipient of the communication: “Authorized and paid for by NAME OF COMMITTEE”. Provided that for campaign signs, banners and other campaign materials capable of re-use, the name of the committee for purposes of this Rule is the name of the committee as registered with the Ethics Commission but is not required to include the year of the election for which the committee is formed. This provision shall not apply to bumper stickers, campaign buttons, t-shirts, aerial advertising or similar advertisements of such a nature that inclusion of a disclaimer would be impractical.

Fund-Raising Events

2.35. Joint Candidate Fund-Raising.

Two or more candidates for tribal office may participate in a joint fundraising event, provided each candidate is given approximately equal status in any formal solicitation for contributions and each candidate committee pays an equal share of the costs. Contributions to candidates or candidate committees may not be commingled under any circumstances. Each contribution must be made to an individual candidate committee or ballot question committee.

2.36. Hosting Fundraisers in Residence.

An individual who holds a fund-raising event for a Committee in his or her home may expend personal funds for costs related to the fund-raising event. This expenditure shall be considered an in-kind contribution to the Committee to the extent that costs exceed One Thousand Dollars (\$1,000.00). The exclusion of One Thousand Dollars (\$1,000.00) shall apply no more than once per campaign for a Committee.

2.37. Fund-Raising Auctions or Sales Events.

Any goods or services donated to an auction or other sales event held by a Committee shall be considered as contributions based on the fair market value of the goods or services. Any money paid for goods or services at such an event shall be considered as contributions. No goods or services may be donated or purchased for such an event by a corporation.

2.38. Free Campaign Related Goods or Services and Sale of Campaign Related Goods or Services.

Campaign-related goods of modest value such as coffee mugs, t-shirts, caps and similar items may be provided free by a Committee to volunteers and contributors and shall be considered as expenditures by the committee. If a Committee sells goods or services, the price paid for the goods or services shall be a contribution to the committee and the cost of the goods or services shall be an expenditure by the committee. The sale of such goods or services shall be subject to all applicable licenses and taxes required by law.

Loans

2.39. Loans to Committees by Commercial Financial Institutions.

A loan made to a Committee shall not be considered a contribution if the loan is made by a commercial financial institution normally engaged in the business of making loans and if the loan is made in the regular course of business on the same terms ordinarily available to members of the public.

2.40. Loans to Committees by Candidates and Other Non-Financial Entities.

(A) A loan by any person other than a commercial financial institution to a Committee shall be considered a contribution from the lender, guarantor or endorser in the

amount of the balance of the loan that has not been repaid.

(B) A candidate or the organizer of the ballot question committee may make a loan to his or her committee from his or her personal funds or from joint funds of the candidate (or organizer) and spouse. If a candidate or the organizer of the ballot question committee makes such a loan to his or her committee, the terms of the loan must be in writing in a document executed contemporaneously with the transfer of funds into the committee's account. The document must be signed and dated by all parties involved. Such a loan may be repaid from contributions received by the committee, but the committee shall not be permitted to pay any interest on the loan.

(C) If a candidate or the organizer of the ballot question committee transfers his or her personal funds or joint funds of the candidate and the candidate's spouse to the Committee without a written loan document, the Committee cannot repay the candidate for the transfer.

(D) A candidate or the organizer of the ballot question committee who makes expenditures from personal funds or joint funds of the candidate (or organizer) and spouse that are not transferred to the Committee's account shall not have made a loan to the committee. Such expenditures that are not intended to be reimbursed shall be reported as contributions to and expenditures by the Committee, or as an in-kind contribution to the Committee. Expenditures that are intended to be reimbursed must be reported as in-kind expenditures on the report covering the time period during which the expenditure was made and be reimbursed within ninety (90) days of the expenditure.

Candidate Committees

2.41. Designation of Candidate Committee.

A candidate for Tribal office shall designate one (1) candidate committee by filing a Statement of Organization with the Commission. If two or more candidates have the same name, use of a candidate's name in the name of a candidate committee that is the same as that of another candidate committee shall not violate these Rules.

2.42. One Candidate Committee at Any Time; Exception.

A candidate may have no more than one (1) candidate committee for any tribal

office at any time; provided, however, a candidate may maintain two (2) separate candidate committees for Tribal offices for a period of sixty (60) days after filing a Statement of Organization for a second committee. In such case, funds or debt, or both, may be transferred from the first committee to the second committee as permitted by law and these Rules.

2.43. When to File a Candidate Committee Statement of Organization.

A Statement of Organization for a candidate committee shall be filed with the Commission at any earlier time but no later than ten (10) days after the candidate has accepted or expended more than Five Hundred Dollars (\$500.00) for his or her campaign.

2.44. Candidate Committee Officers.

A candidate committee shall have a Chair and a Treasurer, who may be the same person and who shall serve at the pleasure of the candidate. The candidate may be either the Chair or Treasurer of his or her candidate committee, or both, but a candidate may not be an officer of any other candidate committee. A candidate committee may designate a Deputy Treasurer, who may perform the duties of the Treasurer in the Treasurer's absence and who also shall serve at the candidate's pleasure. The candidate may be the Deputy Treasurer of his or her committee. All officers of candidate committees shall be citizens of the Muscogee (Creek) Nation.

2.45. Vacancy in Treasurer Office--Prohibition on Activity.

A candidate committee cannot accept or expend funds at any time there is a vacancy in the offices of both the Treasurer and Deputy Treasurer.

2.46. Candidate Committee Treasurer Responsibilities.

The Treasurer shall be responsible for keeping the candidate committee's financial records and accounts, including but not limited to all contributions accepted; all deposit slips or other evidence of acceptance of contributions; all expenditures made; all receipts, canceled checks or other evidence of payment of expenditures and all other documents necessary to file Reports of Contributions and Expenditures. All such documents shall be maintained for at least four (4) years and shall be made available to the Commission upon request of the Commission. The Treasurer shall be responsible for timely and accurately filing all Reports of Contributions and Expenditures for the committee.

2.47. Filling Candidate Committee Officer Vacancy.

Any vacancy in the office of Chair, Treasurer or Deputy Treasurer shall be filled within thirty (30) days, and an Amended Statement of Organization identifying the new Chair, Treasurer or Deputy Treasurer shall be filed with the Commission within five (5) days after the vacancy is filled.

2.48. Candidate Committee Statement of Organization Requirements.

The Statement of Organization for a candidate committee shall include, but shall not be limited to, the following information: (1) The name of the candidate as it will appear on the ballot; (2) the names of the Chair, Treasurer and, if applicable, Deputy Treasurer of the committee; (3) the name of the committee, which shall include at least the full name, first name, middle name or last name of the candidate and the year of the general election or special general election for the office being sought; (4) the official and complete name of the tribal elective office to which the candidate seeks election; (5) the mailing address and, if applicable, residence address, e-mail address, telephone numbers and Internet website, if applicable, of the candidate committee, the candidate, the Chair, Treasurer and, if applicable, Deputy Treasurer and (6) the full name and address of each depository in which the committee will maintain an account. The candidate shall be responsible for notifying the Commission of any change in information provided on the Statement of Organization by filing an Amended Statement of Organization within ten (10) days of a change being made. An Amended Statement of Organization shall contain the same information as the Statement of Organization.

2.49. Chairperson or Designee of the Commission Authority to Require Additional Information.

The Muscogee Nation Public Officials Ethics Commission Chairperson, or a Designee of the Commission, shall be authorized to require additional information on the Statements of Organization and Amended Statements of Organization that is consistent with the intent and purposes of these Rules.

Ballot Question Committee

2.50. Creation of a Ballot Question Committee.

A Muscogee (Creek) Tribal citizen may form one Ballot Question Committee by filing a Statement of Organization with the Commission. Each Ballot Question Committee formed must specifically advocate for either the success or defeat of one single ballot question. The name of the committee must contain the specific ballot question that the committee is formed for, and whether the committee was formed to support or oppose the specific ballot question, and the year that the question will be on the ballot.

2.51. One Ballot Question Committee at a time.

A tribal citizen may have no more than one (1) ballot question committee for any tribal election at any time.

2.52. Ballot Question Committee Officers.

A ballot question committee shall have a Chair and a Treasurer, who may be the same person. The organizer of the Ballot question committee may be either the Chair or Treasurer of his or her Ballot Question Committee, or both, but an officer of one Ballot Question Committee may not be an officer of any other Ballot Question Committee or candidate committee. A committee may designate a Deputy Treasurer, who may perform the duties of the Treasurer in the Treasurer's absence. All officers shall be citizens of the Muscogee (Creek) Nation.

2.53. Application of These Rules to Ballot Question Committees.

All rules herein shall apply identically and in full-force to all Ballot Question Committees, other than as excepted or altered by these rules.

2.54. Termination of Ballot Question Committee.

A Ballot Question committee shall be allowed to accept donations and make expenditures until the election date on which the specified ballot question is to be voted upon. A Ballot Question committee is prohibited from accepting any donations or making any expenditures after the election day of the specified ballot question. The ballot question committee shall file its final report on or before the Thirtieth (30th) day after Election and shall contain all contributions and expenditures from the close of the previous reporting period through twenty (20) days after the date of the General Election.

Exploratory Activities

2.55. Exploratory Activities.

An individual may conduct exploratory activities, such as polling and other techniques designed exclusively to assist the individual in making a decision as to whether to seek any tribal office or offices. The individual may accept contributions, subject to the limits in these Rules, and make expenditures limited to exploratory activities without designating a candidate committee; provided, however, the individual shall keep or cause to be kept all records required of a candidate committee. Provided further, once an individual has accepted or expended more Five Hundred Dollars (\$500) for any tribal office, the individual either shall become a candidate and file a Statement of Organization as required by these Rules, or cease all exploratory activities. If the individual becomes a candidate and forms a candidate committee, all contributions received and expenditures made for exploratory activities shall be subject to maximum contribution limits and shall be included in the committee's first Report of Contributions and Expenditures. No individual may conduct exploratory activities for a tribal office or offices as provided in this section more than one time between regular general elections for Tribal offices.

Campaign Depositories and Accounts

2.56. Campaign Depository in Financial Institution.

Every committee shall establish one campaign depository in a financial institution that ordinarily conduct business within the Muscogee Nation.

2.57. Campaign Depository Account Requirements.

Every committee shall maintain a campaign account in the name of the committee as it is registered with the Commission. All contributions to a committee except in-kind contributions, including contributions by a candidate to his or her committee, shall be deposited in to the campaign account. All expenditures made by a committee shall be made on a check or by debit card, signed by the candidate, Treasurer or Deputy Treasurer of a committee. Provided, however, a candidate may authorize other individuals to sign checks or debit cards for the candidate's committee; however, the candidate, the Treasurer and

Deputy Treasurer shall remain responsible for the lawful expenditure of committee funds. A campaign account may earn interest paid by the financial institution in which the account is maintained, but campaign funds shall not be invested in any other way.

Reports of Contributions and Expenditures

2.58. Campaign Contribution and Expenditure Reporting Requirements.

1. Every committee is required to file reports that disclose the following information:

(A). The grand total of contributions from the end of the last election cycle to the current date and expenditures report unless beginning a new campaign or cumulative report.

(B). The specific identification of each contributor who gives a contribution which exceeds One Hundred Dollars (\$100.00), with a maximum contribution from any individual or entity of Two Thousand Dollars (\$2,000.00) per candidate, including:

1. Date contribution accepted;
2. The contributors name and address; and
3. A specific description of the contribution.

(C). The aggregate value of all contributions received from each such contributor during the campaign.

(D). The total sum of all contributions during the current reporting period.

(E). The grand total of all contributions for the campaign or cumulative period to date.

(F). The grand total of expenditures from the last report, unless beginning a new campaign or cumulative period.

(G) All campaign expenditures in detail by categories or objects of expenditure.

(H) The total of all expenditures during the current reporting period.

(I) Grand total of all expenditures for the campaign or reporting period to date.

2. Reports shall be certified by the candidate. No fictitious names shall be used on

reports. The report shall show the correct name of the person actually making the contribution. Interest earned shall not be considered a contribution and a filing fee paid by the candidate shall not be considered to be an expenditure.

3. The reports herein described shall be filed on or before the tenth (10th) day preceding the date for the Primary Election and shall contain all contributions accepted and expenditures made from the date on which the earliest contribution was received or expenditure made, whichever earlier, through a period of time ending fifteen (15) days preceding the date of the Primary Election. Contributions accepted and expenditures made shall be reported whether the candidate had declared candidacy as of a certain date, however, the reports are not required to be submitted until the candidate has accepted or expended Five Hundred Dollars (\$500).

4. A further report shall be filed on or before the tenth (10th) day preceding the date for the Runoff Election and shall contain all contributions accepted and expenditures made from the date on the close of the reporting period as required by Paragraph 3 above through a period of time ending fifteen (15) days preceding the date of the runoff election.

5. A further report shall be filed on or before the tenth (10th) day preceding the date for the General Election and shall contain all contributions accepted and expenditures made from the date on the close of the reporting period as required by Paragraph 4 above through a period of time ending fifteen (15) days preceding the date of the General Election.

6. A further report shall be filed on or before the Thirtieth (30th) day after the date for the General Election and shall contain all contributions accepted and expenditures made from the date on the close of the reporting period required by Paragraph 5 above through a period of time ending twenty (20) days after the date of the General Election.

7. Disclosure of campaign contributions and expenditures shall begin as of the effective of these rules. Campaign Contributions received and expenditures made prior to the effective date are not required to be disclosed.

2.59. Notice of Delinquency.

The Commission shall post in public view at the Office of the Secretary of the Nation and Commerce a list of those delinquent in filing any statements or reports required by law. The Commission shall send a Delinquency Notice (Exhibit E) to the appropriate committee within twenty-four (24) hours of the filing deadline by certified mail and may

impose late fees as provided by law. If any committee has not filed any statement or report within forty-eight hours of receipt of Delinquency Notice, the Commission may, on its own motion, institute proceedings against such committee.

2.60. Penalties for Late Report Filings.

Committees who fail to file reports on or before the days specified in these rules shall be assessed a late filing fee of One Hundred Dollars (\$100.00) for each day such report remains unfiled, provided that such late fee may not exceed One Thousand Dollars (\$1,000.00). Any elected official shall not be sworn into office until all late fees due under the law has been paid in full.

2.61. Time and Requirements for Electioneering Communication Report.

(A) Any person other than a candidate's committee, that makes an electioneering communication of Five Hundred Dollars (\$500.00) or more in the aggregate at least fifteen (15) days prior to any election shall be required to file a report with the Commission at the same time that committees are required to file pre-election reports for the applicable election.

(B) Any person other than an candidate's committee, that makes an electioneering communication of Five Hundred Dollars (\$500.00) or more in the aggregate during the period beginning no more than fourteen (14) days prior to any election and ending on the day of the election shall make a report to the Commission no later than the business day following the day the electioneering communication is made.

(C) Each report filed under this subsection shall include the name and address of the person making the electioneering communication and the name, street address, telephone number, and office or title of the individual filing the report.

(D) Each report filed shall include the name of the entity or the person making the electioneering communication; the amount, date and a brief description or statement of each electioneering communication, and the name and office of the candidate supported or opposed, indicating whether the candidate was supported or opposed.

(E) If the person or entity making the electioneering communication received funds from any other person for the purpose of making an electioneering communication or communications, the report shall include the name, address and principal business activity of each person contributing funds in excess of Fifty Dollars (\$50.00) in the aggregate and the

amount of any such contribution or contributions that have not been previously reported, together with a cumulative total of all contributions made by each person since the first report was filed for the election for which the electioneering communication is being made. As used in this section, “for the purpose of” means that the funds are either: (1) received by an organization or corporation in response to a solicitation specifically requesting funds to pay for an electioneering communication or independent expenditure or (2) specifically designated for electioneering communications or independent expenditures by the donor.

(G) Reports required by this section shall not relieve the person making the report from filing other reports required by these Rules.

(H) If any person makes, or contracts to make, any expenditure for an electioneering communication and such expenditure is coordinated with a candidate or a committee in any way, the expenditure shall be considered as a contribution to the committee and as an expenditure by the committee.

Use of Electronic Media

2.62. Use of Personal Resources for Volunteer Campaign Communications.

Use by an individual of personal telephone, electronic mail, Internet social media or similar electronic devices or services for campaign communications shall be considered volunteer services and not contributions.

2.63. Use of Commercial Resources for Campaign Communications.

Use by a commercial entity, including corporations, of telephone, electronic mail, Internet social media or similar electronic devices or services for campaign communications shall be considered as in-kind contributions to a committee unless the committee has made an expenditure to pay for the communications.

2.64. Website Development, Internet Advertising, Other Electronic Services.

Expenditures for development of Internet websites, Internet advertising, electronic mail lists and similar electronic communications services shall be considered ordinary expenditures by a committee

Dissolution

2.65. Dissolution of Committee.

A committee may dissolve at any time by filing a Final Report of Contributions and Expenditures that shows no funds remaining in the committee. A committee shall dissolve no later than two (2) years after the general election for an office with a two-year term or after a ballot question, no later than four (4) years after the general election for an office with a four-year term, and no later than six (6) years after the general election for an office with a six-year term, if not required to dissolve sooner by law or these Rules.

2.66. Final Report of Contributions and Expenditures.

A Final Report of Contributions and Expenditures shall include, but not be limited to, the same information that is included on a Report of Contributions and Expenditures and shall cover a period beginning after the last day of the immediately preceding reporting period and ending on the day before the Final Report of Contributions and Expenditures is filed. Provided, however, the Final Report of Contributions and Expenditures shall include information about the resolution of debt, if any, and the disposition of tangible assets, if any, by the committee. If tangible assets are purchased from a committee by the candidate or a member of the candidate's family, the purchase price must be fair market value.

RULE 3 – CONFLICTS OF INTEREST

3. Conflicts of Interest.

3.1. Purpose of Rule 3.

The purpose of Rule 3 is to establish rules of ethical conduct for tribal officers and employees by prohibiting conflicts between their public duties and private economic interests.

3.2. Definitions.

As used in Rule 3:

1. “**Agency**” means any entity of Tribal government created by the Constitution or laws of the Muscogee Nation and supported in whole or in part by Tribal funds or entrusted with the expending of Tribal funds or administering of Tribal property

or otherwise exercising the sovereign power of the Muscogee Nation, including but not limited to all such offices, departments, institutions, boards, bureaus, commissions, agencies, authorities and instrumentalities of the Muscogee Nation. “Agency” shall not mean any city, county, rural electric cooperative or tribal housing authority created under the Muscogee Nation Housing Authorities Act nor any state entity that performs only advisory functions and that cannot independently exercise the sovereign power of the Muscogee Nation;

2. “**Commission**” shall mean the Muscogee Nation Public Officials Ethics Commission;

3. “**Family member**” shall include spouse, children (including stepchildren), mother, father, sister or brother;

4. “**Gift**” means property transferred to or service provided for another without compensation of equal value;

5. “**Vendor**” means any seller or prospective seller of any property or service to the Muscogee Nation; and

6. “**Vendor’s agent**” means a representative of a vendor.

3.3. **Rules or Policies More Restrictive than Ethics Rules.**

In addition to these Rules, a tribal officer or employee shall comply with any more restrictive rules or policies established by his or her employing agency and with any more restrictive provisions of the statutes of the Muscogee Nation; provided, the Commission shall not be responsible for enforcement of Rules other than these Rules unless otherwise required by law.

3.4. **Misuse of Office.**

Except as permitted by law or these Rules, a Tribal officer or employee shall not use his or her Tribal office (1) for his or her own private gain, (2) for the endorsement of any product, service or enterprise, (3) for the private gain of a family member or persons with whom the Tribal officer or employee is affiliated in a nongovernmental capacity, including nonprofit organizations of which the Tribal officer or employee is an officer or member, or (4) for the private gain of persons with whom the Tribal officer or employee seeks employment or business relations. These prohibitions shall not apply to any act or endorsement if the act or endorsement is customary for the Tribal officer or

employee's position or is authorized or permitted by the Tribal officer or employee's contract of employment or if otherwise permitted or authorized by the Constitution or statutes or by these Rules. A Tribal officer or employee may promote or solicit funds for civic, community or charitable organizations, including those promoting businesses or industries, or civic, community or charitable fund-raising events provided the Tribal officer or Tribal employee receives nothing for doing so except the costs associated with the Tribal officer or Tribal employee's participation in a fund-raising promotion or event paid for from funds of a charitable organization. No individual or other entity may pay for, or reimburse the charitable organization for, any such costs and gratuities; provided, however, nothing shall prevent individuals or other entities from making customary donations or paying sponsorship fees to the charitable organization.

3.5. Misuse of Authority.

A Tribal officer or employee shall not use or permit the use of his or her office or title or any authority associated with his or her Tribal office, or a Tribal office to which he or she has been elected, in a manner that is intended to coerce or induce another person, including a subordinate, to provide any benefit, financial or otherwise, to himself or herself or to his or her family members or persons with whom the Tribal officer or employee is affiliated in a nongovernmental capacity, except to the extent otherwise permitted or authorized by the Constitution or statutes or by these Rules.

3.6. Tribal Officer Impartiality.

In the event a Tribal officer or employee:

1. knows that a particular matter involving specific parties is likely to have a direct and predictable effect on the material financial interests of the Tribal officer or employee or of his or her family member; or

2. knows that a person with whom he or she has a business relationship other than a routine consumer transaction is a party to or represents a party to such matter; or

3. determines that the circumstances would cause a reasonable person with knowledge of the relevant facts to question his or her impartiality in the matter;

the Tribal officer or employee shall not participate in the matter unless he or she is required to do so by law or permitted to do so by these Rules. This provision shall not

apply when the effect of the matter applies equally to all members of a profession, occupation or large class. In considering whether a relationship would cause a reasonable person to question his or her impartiality, the Tribal officer or employee may seek the advice of the Commission. The Commission may exercise discretion in determining whether or not to provide such advice or may delegate responsibility to the Chairperson or Designee of the Commission to provide such advice. Such advice, if given by the Commission or the Chairperson or Designee of the Commission, shall bind the Commission. Failure to seek such advice shall have no relevance in any subsequent proceeding involving that individual. A particular matter will have a direct and predictable effect on a material financial interest if there is a close causal link between any decision or action to be taken in the matter and any expected effect of the matter on the material financial interest, even though the effect is not immediate. It shall not apply to a chain of causation if it is attenuated or is contingent on the occurrence of events that are speculative or that are independent of, and unrelated to, the matter.

For purposes of this Rule, a “material financial interest” shall mean:

1. an ownership interest in a private business, including but not limited to, a closely held corporation, limited liability company, Subchapter S corporation or partnership for which the Tribal officer or employee or his or her family member is a director, officer, owner, manager, employee, or agent or any private business, closely held corporation or limited liability company in which the Tribal officer or employee or his or her family member owns or has owned stock, another form of equity interest, stock options, debt instruments, or has received dividends or income worth Twenty Thousand Dollars (\$20,000.00) or more at any point during the preceding calendar year;

or

2. an ownership interest of five percent (5%) or more in a publicly traded corporation or other business entity by a Tribal officer or employee or his or her family member at any point during the preceding calendar year; or

3. an ownership interest in a publicly traded corporation or other business entity from which dividends or income, not to include salary, of Fifty Thousand Dollars (\$50,000.00) or more were derived during the preceding calendar year by the Tribal officer or employee or his or her family member; or

4. an interest that arises as a result of the Tribal officer's or employee's or his or her family member's service as a director or officer of a publicly traded corporation or other business entity at any time during the preceding calendar year; or

5. any sources of income derived from employment, other than compensation pertaining to the office for which the Tribal officer or employee or his or her family member holds, in the amount of Twenty Thousand Dollars (\$20,000.00) or more by the Tribal officer or employee or his or her family member.

For purposes of this Rule a "material financial interest" shall not mean (1) an interest in a mutual fund or other community investment vehicle in which the Tribal officer or employee or his or her family member exercises no control over the acquisition or sale of particular holdings, or (2) an interest in a pension plan, 401k, individual retirement account or other retirement investment vehicle that makes diversified investments over which the Tribal officer or employee or his or her family member exercises no control over the acquisition or sale of particular holdings.

3.7. Gifts from Vendors to Persons Engaged in Purchasing Decisions.

No Tribal officer or employee shall accept any gift for himself or herself or for his or her family member from any vendor or vendor's agent that is selling or attempting to sell goods or services to the Nation, Tribal officer, or employee's agency if the Tribal officer or employee is engaged in purchasing decisions designed to determine the vendor that will sell the goods or services to the agency. As used in this section, "engaged in purchasing decisions" shall mean performing functions in the purchasing process for purchases in excess of Ten Thousand Dollars (\$10,000.00), including but not limited to participation (a) in preparation of requests for proposals, bid specifications or similar documents, or (b) in review and evaluation of proposals, bids or similar responses, or (c) in recommendations for selection of successful proposals or bids or other similar awards or (d) in approval of requisitions for purchase. It shall not apply to persons performing only nondiscretionary or clerical functions. This prohibition shall not apply to the Tribal officer or employee's family member if the gift is given for a bona fide reason unrelated to the Tribal officer or Tribal employee's status as a Tribal officer or employee and the Tribal officer or employee receives no direct benefit from the gift.

3.8. Gifts from Successful Vendors.

No Tribal officer or Tribal employee shall accept any gift for himself or herself or his or her family member from any vendor or vendor's agent at any time the vendor is doing business with the Nation, Tribal officer, or Tribal employee's agency through a contract involving property or services, subject to the following exceptions:

1. A Tribal officer or employee may accept meals having an aggregate market value of Twenty Dollars (\$20.00) or less per occasion, provided that the aggregate market value of individual gifts received from any individual or other entity does not exceed Fifty Dollars (\$50.00) during any calendar year. Where the market value of a meal exceeds Twenty Dollars (\$20.00) on a single occasion, the Tribal officer or employee may not pay the excess value over Twenty Dollars (\$20.00) in order to accept that portion of the gift worth Twenty Dollars (\$20.00). The value of a meal shall include its price, plus any applicable tax but shall not include a gratuity.

2. A Tribal officer or employee may accept a gift given under circumstances that make it clear that the gift is motivated by a family relationship or a personal relationship rather than the Tribal officer or employee's status as a Tribal officer or employee. Relevant factors in making such a determination include, but are not limited to, the history and nature of the relationship and whether the family member or friend personally pays for the gift.

3. A Tribal officer or employee may accept a gift given to all Tribal employees or to all employees of his or her agency provided the gifts are customary within the industry and the costs of the gifts do not significantly exceed amounts that are customary within the industry.

4. A Tribal officer or employee may accept a book, written materials, audio tapes, videotapes and other informational or promotional material related to the performance of the Tribal officer or employee's official duties.

5. A Tribal officer or employee may accept opportunities and benefits available to the public generally and on the same terms available to the public.

3.9. Gratuities Offered at Seminars, Conferences or Similar Events.

A Tribal officer or employee attending a conference, seminar or similar event related to the performance of his or her official duties may accept gratuities and hospitality made available to all participants in the event.

3.10. Modest Items of Food and Refreshments.

A Tribal officer or employee occasionally may accept modest items of food and refreshments, excluding beverages containing alcohol, from vendors or persons regulated or licensed by the Tribal officer or employee’s agency when offered other than as part of a meal.

3.11. Acceptance of Meals, Lodging, Transportation and Other Benefits as a Result of Spouse’s Business Activities.

A Tribal officer or employee may accept meals, lodging, transportation and other benefits resulting from the business or employment activities of the Tribal officer or employee’s spouse when it is clear that such benefits have not been offered or enhanced because of the Tribal officer or employee’s status as a Tribal officer or employee.

3.12. Acceptance of Meals, Lodging, Transportation and Other Benefits as a Result of Private Business Activities.

A Tribal officer or employee may accept meals, lodging, transportation and other benefits resulting from his or her private business or employment activities when such benefits have not been offered or enhanced because of the Tribal officer or employee’s status as a Tribal officer or employee.

RULE 4 – INVESTIGATIONS, PROSECUTIONS AND PENALTIES

4. Investigations, Prosecutions, and Penalties.

4.1. Purpose of Rule 4.

The purpose of Rule 4 is to set forth the procedures for investigating and prosecuting alleged violations of these Rules and prescribing penalties for violations of these Rules, as provided by MCNA Title 37 §9.

4.2. Definitions.

As used in Rule 6:

1. “**Commission**” shall mean the Muscogee Nation Ethics Commission;
- and
2. “**Complaint**” shall mean an allegation of a violation of these Rules.

4.3. Complaints.

A. A member of the Commission or an employee of the Commission may accept a complaint from any source; provided, however, no complaint shall be accepted from an anonymous source.

B. Any person other than a member or an employee of the Commission who files a written complaint alleging a violation of any Rule shall (1) cite the Rule or Rules alleged to have been violated, (2) describe in detail the facts alleged to have caused a violation of a Rule to occur and the name of any individual involved in the alleged violation, (3) certify that he or she has personal knowledge of the facts alleged. It shall be a violation of these Rules for any person to willfully, knowingly and without probable cause make a false complaint alleging a violation of these Rules. A frivolous complaint shall be deemed to be a violation of these Rules by the person making the complaint. A frivolous complaint means the complaint was knowingly asserted in bad faith, was unsupported by any credible evidence, was not grounded in fact, or was unwarranted by existing law. Any person who files a written complaint shall, by doing so, submit to the jurisdiction of the Commission for purposes of this paragraph. It shall be a violation of these Rules for any Tribal officer or employee to take retaliatory action against any subordinate Tribal officer or employee because the subordinate Tribal officer or employee filed a complaint other than a false complaint or a frivolous complaint.

4.4. Preliminary Investigation of Complaint.

The Muscogee Nation Public Officials Ethics Commission Chairperson, or a Designee of the Commission, may conduct or authorize any Commission employee to conduct a preliminary inquiry into any allegations contained in a complaint for the purpose of assisting the Commission in determining whether to begin a formal investigation. All documents relating to complaints shall be confidential records unless released by the Commission as provided hereafter

4.5. Commission Review of Complaint or Investigation.

The Muscogee Nation Public Officials Ethics Commission Chairperson, or a Designee of the Commission, shall advise or authorize the General Counsel or other employees to advise the Commission, in executive session, of any complaints received together with the results of any preliminary inquiry. In addition, the Chairperson or

Designee of the Commission may advise or authorize any Commission employee to advise the Commission of any alleged violations of these Rules based on a review by Commission employees of registrations, reports and statements required to be filed under these Rules or based upon independent research or inquiry by Commission employees.

4.6. Formal Investigation.

The Commission, upon determining that there is reasonable cause to believe that the person or persons named in the complaint have violated these Rules, may authorize a formal investigation. The Chairperson or Designee of the Commission shall cause a unique number to be assigned to identify each formal investigation, and shall be empowered to hire an investigator specific to each uniquely numbered case. The unique identifying number shall be followed by reference to the specific Rule or Rules alleged to have been violated and language to indicate whether the Rule is a campaign finance, financial disclosure, or conflict of interest rule.

4.7. Subpoena Power.

When the Commission authorizes a formal investigation, the Chairperson or Designee of the Commission is authorized or may authorize any Commission employee to exercise subpoena power as authorized by Muscogee Nation National Council.

4.8. Confidentiality of Complaint or Investigation.

Unless the Commission determines that a complaint or a formal investigation should be made public, all complaints and formal investigations, including documents and discussions in executive session, shall remain confidential and shall not be disclosed by a Commissioner, by the Commission or by its employees except to the extent necessary to facilitate or conduct a preliminary inquiry or a formal investigation. However, the Chairperson or Designee of the Commission may confirm or deny the existence of a complaint or formal investigation alleging a violation of these Rules by any individual upon the written request of that individual. A settlement agreement executed under these Rules shall be public record. The Commission may make a complaint or formal investigation and any documents relating thereto public at any time it deems release of that information to be in the public interest.

4.9. Commission Action During Formal Investigation.

At any time during a formal investigation or at the conclusion of a formal investigation, the Commission may:

1. Terminate the investigation and take no further action;
2. Authorize the Chairperson or Designee of the Commission to cause the individual or individuals or entity alleged to have violated these Rules to be prosecuted Attorney General of the Muscogee Nation; or
3. Offer a settlement agreement. Should a settlement agreement not be consummated, the Commission may authorize a prosecution to be commenced as provided in Subsection (2) of this Rule.

If a prosecution or a settlement agreement is authorized prior to conclusion of a formal investigation, the Commission may continue the investigation. Termination of a formal investigation as provided in Subsection (1) of this Rule shall not bar reopening the same investigation based upon newly discovered evidence or other good cause. In no event shall the Commission authorize the prosecution of a lawsuit in the District Court until any person who is alleged to have violated these Rules has had an opportunity to respond in writing and be given a public hearing in regard to allegations of any violation. Such person shall be given notice of the allegations in writing and shall have twenty (20) days in which to file a written response. Upon application, such person shall be granted no more than one extension of twenty (20) additional days in which to file a response. Any additional response shall be granted at the exclusive discretion of the Commission. Failure to respond shall be deemed an admission of the allegations. Such person and/or an attorney representing such person also shall be granted an opportunity to personally appear before the Commission to make an oral response, provided such response is within the time frame provided for a written response.

4.10. Commission Transmittal of Information to Appropriate Authorities.

The Commission may at any time transmit to appropriate criminal law enforcement authorities any information received by the Commission or its employees as the result of a complaint or a formal investigation.

4.11. Criminal Penalties for Violations of Rules.

Every person who violates any portion of the law, shall upon conviction be guilty

of a misdemeanor and punished by a fine of not more than One Thousand Dollars (\$1,000.00) per occurrence.

4.12. Further Penalties for Violation of Rules.

Every person who violates any portion of the law, shall upon conviction be barred from filing for elective office for a period of ten (10) years and Candidates who violate any provision of the law who were elected shall forfeit office and shall be prohibited from filing for elective office for a period of ten (10) years.

RULE 5 – FRIVOLOUS COMPLAINTS

5. Frivolous Complaints.

5.1. Frivolous Complaints.

It shall be unlawful for any person to file a frivolous complaint with the Public Officials Ethics Commission. A person shall be deemed to have filed a frivolous complaint if:

1. The person has submitted or conspired to submit substantially the same complaint within the preceding one (1) year period of time;
2. The complaint is not accurate or well-grounded in fact or is made maliciously; or
3. The complaint is made for an improper purpose or to harass any person named in the complaint, as determined by a unanimous vote of the Public Officials Ethics Commission.

RULE 6 – CONDUCT OF HEARINGS

6. Conduct of Hearings.

6.1. Hearing Body.

The Public Officials Ethics Commission is charged by Tribal Law to conduct hearings after a complaint has been determined to have merit. The Chair of the Commission shall chair the hearing; however, each Commissioner shall have one vote on the decision of the Commission in regards to the outcome of the hearing.

6.2. Case Selection.

All cases shall be selected for a hearing by a majority vote of the Commission.

6.3. Oral Argument.

When the Commission grants a hearing, the case is set for oral argument. Both parties will file briefs on the merits of the case. With consent of the parties or approval of the Commission, amici curiae, or “friends of the court,” may also file briefs. *All briefs must be filed within (10) days prior to the hearing.*

The commission will hold a two-week oral argument session. Each side has thirty (30) minutes to present its argument, though the Commission may choose to give more time, and during that time, the Commissioners may interrupt the advocate and ask questions. The Petitioner gives the first presentation, and may reserve some time to rebut the respondent’s arguments after the respondent has concluded. *Amici Curiae* may also present oral argument on behalf of one party if that party agrees. The Commission advises counsel to assume that Commissioners are familiar with and have read the briefs filed in a case.

6.4. Decision.

At the conclusion of oral argument, the case is submitted for decision. Cases are decided by a majority vote of the Commission. It is the Commission practice to issue decisions in all cases argued in a particular Term within 30 days of the hearing. Within that Term, however, the Commission is under no obligation to release a decision within any set time after oral argument. At the conclusion of oral argument, the Commission retires to another conference at which the preliminary votes are tallied, and the most senior Commissioner in the majority assigns the initial draft of the Court’s opinion to a Commissioner on his or her side. Drafts of the Commission Opinion, as well as any concurring or dissenting opinions, circulate among the Commission until the commission is prepared to announce the judgement in a particular case. The delivery of the decision to the participants shall be made in writing after giving a notice and time of the decision.

6.5. Published Opinions.

A copy of the Commission ruling and opinion shall be submitted to the Office of the Principal Chief, the National Council, the Supreme Court and to the Office of the

Attorney General within five (5) days of the ruling.

RULE 7 – FORMS

7. Forms.

- 7.1. Campaign Contribution Report Form – EXHIBIT A**
- 7.2. Campaign Expenditure Report Form – EXHIBIT B**
- 7.3. Request for Campaign Contributions and Expenditure Report – EXHIBIT C**
- 7.4. Complaint Form – EXHIBIT D**
- 7.5. Sample Delinquency Notice Statement – EXHIBIT E**
- 7.6. Notice of Hearing to the Complainant and the Respondent – EXHIBIT F**
- 7.7. Copy of the Candidate Notification Letter – EXHIBIT G**
- 7.8. Sample of Public Notice – EXHIBIT H**