

Cherokee Nation Code Annotated

Title 19: Council

Chapter 5: Governmental Records

§ 45. Requests for Records

Cite as: 19 CNCA § 45

A. Requests for records shall be in writing and addressed to the Director, CEO, or Supervisor of the Department, Agency, Entity or Principal Chief that is the subject of the request. The request shall identify with particularity the agency(ies) or other entity(ies) and/or the matter(s) which are the subject of the request. Said requests shall be delivered to the legislative aide of the Council, who shall enter said request in the records of the Council and shall deliver it to the Director, CEO, or Supervisor of the Department, Agency, Entity or Principal Chief that is the subject of the request on the same or the following working day.

B. The Director, CEO, or Supervisor of the Department, Agency, Entity or Principal Chief that is the subject of the request shall cause the records requested to be produced within ten (10) business days of the receipt of such request at no cost to the Council Member(s). If it is not possible to produce the requested record during the prescribed time limit, the Director, CEO, or Supervisor of the Department, Agency, Entity or Principal Chief that is the subject of the request shall, within the prescribed time limit, provide a written explanation to the Legislative Aide and Council Member(s) as to why the requested record cannot be made available. If the record cannot be made available at a later date, the Director CEO, or Supervisor of the Department, Agency, Entity or Principal Chief that is the subject of the request will include a statement as to when the record will be provided to the Council Member(s). In no event shall the total time to produce be extended beyond ten (10) business days from the date of the receipt of the initial request. The Cherokee Nation can extend the time to respond by an additional ten (10) days, but must provide written notification to the requesting party.

C. The Director, CEO, or Supervisor of the Department, Agency, Entity or Principal Chief that is the subject of the request shall provide the requested records to the requesting Council Member(s) and the Council's Legislative Aide so that the response is made a part of the records of the council. The Legislative Aide shall also provide a copy of all requested records to the Principal Chief and Speaker of the Council.

D. No confidentiality agreements affecting records covered by this Act or claim of privilege or confidentiality shall prevent the Council Members from having access to any records.

E. In the event that the record submitted to the Council Member(s) is "**privileged or confidential**" as defined under the federal Freedom of Information Act, 5 U.S.C. Section 552(b)(4) and the federal case law thereunder, is exempt from disclosure under the Cherokee Nation Freedom of Information and Rights of Privacy Act, as amended, or is confidential under Cherokee Nation law, that record shall, nevertheless, be produced or otherwise made available to the requesting Council Member(s); provided, however, that the producing Cherokee Government officer shall give notice to the Council Member(s) of such status and shall clearly mark each such record with the words "Privileged and Confidential." The Council Member(s) shall make no disclosures of such privileged or confidential records to third parties. Without limiting the generality of the foregoing, personal financial information, credit reports or other financial data obtained by or submitted to the Cherokee Government for the purpose of evaluating credit worthiness, obtaining a license, permit or for the purpose of becoming qualified to contract with the Cherokee Government shall be "**privileged or confidential**" under this Act.

F. Individual health, adoption, and medical records, records deemed classified by the Cherokee Nation or U.S. Government, records constituting attorney-client privilege and any records prohibited by law from delivery to the Tribal Council shall not be disclosable to the Council under this Act.

G. Nothing in this Act shall be construed to require the disclosure of any individual's social security number, date of birth, home address or Cherokee Citizenship number. Such information may be redacted even though the record is marked "privileged and confidential" pursuant to subsection (E).

H. Willful and malicious violation of this Act is a crime and upon conviction an individual shall be fined not more than One Hundred Dollars (\$100.00) or imprisoned for not more than thirty (30) days for the first offense, shall be fined not more than Two Hundred Dollars (\$200.00) or imprisoned for not more than sixty (60) days for the second offense, and shall be fined Three Hundred Dollars (\$300.00) or imprisoned for not more than ninety (90) days for the third or subsequent offense.

Historical Data

LA 06–98, eff. February 9, 1998. Amended LA 21–12, eff. June 13, 2012; LA 15–14, eff. June 20, 2014.