

Cherokee Nation Code Annotated**Title 28: Ethics****Chapter 4: Whistleblower Protection Act****§ 406. Burden of proof**

Cite as: 28 CNCA § 406

A violation of this statute has occurred only if the employee demonstrates, by clear and convincing evidence that any behavior described in 28 CNCA § 407 was a contributing factor in the retaliatory action alleged in the complaint by the employee. However, relief may not be ordered under 28 CNCA § 407 if the employer demonstrates by a preponderance of the evidence that it would have taken the same unfavorable personnel action (retaliatory action) in the absence of such behavior. A showing by the preponderance of the evidence by the employer that the protected activity by the employee was false is a complete defense and complete bar to recovery by the employee.

Historical Data

LA 13–04, eff. April 19, 2004. Amended LA 20–16, eff. August 17, 2016.