

Cherokee Nation Code Annotated

Title 67: Records

Chapter 2: Freedom of Information and Privacy Rights

§ 104. Right to inspect and/or copy public records—Fees—Notification as to public availability of records—Presumption upon failure to give notice—Records to be available when requester appears in person

Cite as: 67 CNCA § 104

A. Any Cherokee Nation citizen has a right to inspect or copy any public record of a public body, except as otherwise provided by 67 CNCA § 105, in accordance with reasonable rules concerning time and place of access. A request to inspect or copy any public record submitted under this Chapter must reasonably describe the records being requested. No provision of this Chapter requires a public body to create or compile new records or to create explanatory material in response to a request.

B. The public body may establish and collect fees not to exceed the actual cost of searching for or making copies of records. Fees charged by a public body must be uniform for copies of the same record or document. However, members of the Tribal Council may receive copies of records or documents at no charge from public bodies when their request relates to their legislative duties. The records must be furnished at the lowest possible cost to the person requesting the records. Records must be provided in a form that is both convenient and practical for use by the person requesting copies of the records concerned. Documents may be furnished when appropriate without charge or at a reduced charge where the agency determines that waiver or reduction of the fee is in the public interest because furnishing information can be considered as primarily benefiting the general public. Fees may not be charged for examination and review to determine if the documents are subject to disclosure. Nothing in this chapter prevents the custodian of the public records from charging a reasonable hourly rate for making records available to the public nor requiring a reasonable deposit of these costs before searching for or making copies of the records.

C. Each governmental department or branch of the Executive or Legislative public or corporate body, upon written request for records made under this chapter, shall within twenty (20) business days of the receipt of any such request notify the person making such request of its determination and the reasons therefore. The governmental public body can extend the time to respond by an additional ten (10) days, but must provide written notification to the requesting party. Nothing in this Act shall supercede Legislative Act 98–6, relating to access to records by members of the Tribal Council. Such a determination shall constitute the final opinion of the public body as to the public availability of the

requested public record and, if the request is granted, the record must be furnished or made available for inspection or copying. If written notification of the determination of the public body as to the availability of the requested public record is neither mailed nor personally delivered to the person requesting the document within the twenty (20) business days allowed herein, unless extended, the request must be considered disapproved and the requestor may appeal the denial as provided by this Act.

D. The following records of a public body must be made available for public inspection and copying during the hours of operation of the public body without the requestor being required to make a written request or inspect or copy the records when the requestor appears in person:

1. minutes of the meetings of a public body;
2. all reports identified in 67 CNCA § 106(A)(8) for at least the fourteen (14)-day period before the current day; and
3. documents identifying persons confined in any jail, detention center, or prison.

E. Independent Information Officer

1. The Office of the Attorney General will employ an Information Officer who will be responsible for facilitating, gathering, tracking and responding to FOIA and Government Records Act requests pursuant to the requirements herein. The Information Officer also serves as a liaison to tribal citizens seeking information and all other related duties as assigned. The Independent Information Officer will be independent in his/her duties and will be free of political or undue influence and shall be terminated only for cause.

2. No part of this section shall be construed such that the Information Officer is responsible for fulfilling FOIA and GRA requests. It shall be incumbent upon the department head to which the request is addressed to fulfill the requirements of the request.

3. The Information Officer shall publish and disseminate, by any means, digital and printed materials in order to educate department heads and the public about the FOIA and its compliance requirements.

4. The Information Officer will deliver monthly reports to the Tribal Council regarding the number of FOIA and GRA requests and other statistical information.

5. Such Independent Information Officer shall be a Cherokee Nation citizen.

Historical Data

LA 25–01, eff. September 14, 2001. Amended LA 16–14, eff. June 20, 2014. Amended LA 25–23, eff. November 6, 2023.