

Cherokee Nation Code Annotated

Title 67: Records

Chapter 2: Freedom of Information and Privacy Rights

§ 105. Matters exempt from disclosure

Cite as: 67 CNCA § 105

A. A public body may, but is not required to, exempt from disclosure the following information:

1. Trade secrets, which are defined as unpatented, secret, commercially valuable plans, appliances, formulas, or processes, which are used for the making, preparing, compounding, treating, or processing of articles or materials which are trade commodities obtained from a person and which are generally recognized as confidential; confidential information, processes, strategies, or techniques utilized in acquisitions or operations of businesses or business assets, and work products, in whole or in part collected or produced for sale or resale, and paid subscriber information. Trade secrets also include, for business entities of the Cherokee Nation, information relating to feasibility, planning, marketing studies, evaluations, competitive information, and other confidential information relating to potential customers, acquisition targets, strategic operations, competitive information, or valuations.
2. Information of a personal nature where the public disclosure thereof would constitute unreasonable invasion of personal privacy. Information of a personal nature shall include, but not be limited to, information as to gross receipts contained in applications for business licenses and information relating to public records which include the name, address, social security number, date of birth, Cherokee citizenship number, email or other electronic identifiers, and telephone number. This provision must not be interpreted to restrict access by the public and press to information contained in public records.
3. Records of law enforcement and public safety agencies not otherwise available by law that were compiled in the process of detecting and investigating crime if the disclosure of the information would harm the agency by:
 - a. disclosing identity of informants not otherwise known;
 - b. the premature release of information to be used in a prospective law enforcement action;
 - c. disclosing investigative techniques not otherwise known outside the government;
 - d. by endangering the life, health, or property of any person.

4. Matters specifically exempted from disclosure by statute or law.

5. Documents of and documents incidental to proposed contractual arrangements and documents of and documents incidental to proposed sales or purchase of property; however:

a. the contract is not exempt from disclosure once executed or the property is sold or purchased except as otherwise provided in this section but the bid or financial documents reflecting the basis for the cost of the contract provided to the public body by a vendor remain exempt;

b. a contract for the sale or purchase of real estate shall remain exempt from disclosure until the deed is executed, but this exemption applies only to those contracts of sale or purchase where the execution of the deed occurs within twelve (12) months from the date of sale or purchase;

c. confidential proprietary information provided to a public body for economic development or contract negotiations purposes is not required to be disclosed.

6. All salary compensation paid by public bodies to individuals by authorized positions as classified by Cherokee Nation laws or Executive and Legislative Human Resources or Personnel Policies and Procedures. The annual budgets shall contain such position listings without the names of the individuals holding such positions.

7. Correspondence or work products of legal counsel for a public body and any other material that would violate attorney-client relationships.

8. Memoranda, correspondence, and working papers in the possession of individual members of the Executive and Legislative Departments or Branches or their immediate staffs.

9. Memoranda, correspondence, documents, and working papers relative to efforts or activities of a public body to attract business or industry to invest within the Cherokee Nation.

10. Information relative to the identity of the maker of a gift to a public body if the maker specifies that his making of the gift must be anonymous and that his identity must not be revealed as a condition of making the gift. With respect to the gifts, only information which identifies the maker may be exempt from disclosure. If the maker of the gift or any member of his immediate family has any business transaction with the recipient of the gift within three (3) years before or after the gift is made, the identity of the maker is not exempt from disclosure.

11. Records exempt: Council, Committees, Commission and Board meetings in executive session; disclosure of deliberation; exemptions.

a. Meetings while acting as trustee of the retirement system or by its fiduciary agents to deliberate about, or make tentative or final decisions on, investments or other financial matters may be in executive session if disclosure of the deliberations or decisions would jeopardize the ability to implement a decision or to achieve investment objectives. A record of the board or of its fiduciary agents that discloses deliberations about, or a tentative or final decision on, investments or other financial matters is exempt from the disclosure requirements.

Adoption of annual investment plan; quarterly review; deliberations in executive sessions; exceptions to making records public; administrative costs; duty of care; independent advisors.

b. The panel may discuss, deliberate on, and make decisions on a portion of the annual investment plan or other related financial or investment matters in executive session if disclosure thereof would jeopardize the ability to implement that portion of the plan or achieve investment objectives.

c. A record of the panel or of the retirement system that discloses discussions, deliberations, or decisions on portions of the annual investment plan or other related financial or investment matters is not a public record to the extent and so long as its disclosure would jeopardize the ability to implement that portion of the plan or achieve investment objectives.

d. Not in conflict with any other disclosure rules subject to federal regulations.

12. The identity, or information tending to reveal the identity, of any individual who in good faith makes a complaint or otherwise discloses information, which alleges a violation or potential violation of law or regulation, to a Nation regulatory agency.

13. If any public record contains material which is not exempt under subsection (A) or (B) of this section, the public body shall separate the exempt and the nonexempt material and make the nonexempt material available in accordance with the requirements of this chapter.

14. Documents otherwise publicly available or previously provided.

B. The Office of the Attorney General shall have the authority to exempt certain information from disclosure in accordance with this provision. Such information may include, but shall not be limited to, information contained in investigatory files of the Attorney General. information that may unreasonably interfere with the Cherokee Nation's interests in

litigation or potential litigation, and information deemed essential for safeguarding the legitimate interests of the Cherokee Nation.

1. The Office of Attorney General shall establish policies and procedures in order to objectively carry out the provisions of this Chapter.

2. Such policies and procedures shall be made available to the public.

B. Any record that is requested and is determined to be exempt and not disclosed and marked confidential shall be accompanied by a statement setting out the reasons for such determination.

Historical Data

LA 25-01, eff. September 14, 2001. Amended LA 04-12, eff. February 28, 2012; LA 16-14, eff. June 20, 2014. Amended LA 25-23, eff. November 6, 2023.