

ETHICS REVIEW COMMITTEE MEETING AGENDA

Hybrid: Microsoft Teams Virtual Meeting/In-Person
July 11, 2023
1:00-2:00

Type of Meeting: Quarterly Meeting of the Ethics Review Committee

Meeting Facilitator: ☐ Chairwoman Tasheena Parker

Ethics Advocates/Audit and Ethics Committee Representative: ☐ Marisa Cabe,
☐ Dale Robinson, ☐ Reva Ballew, ☐ Karen French-Browning, ☐ Shirley Brady, ☐ Doris
Johnson ☐ Monique Taylor

Advisory Members: ☐ Chief Audit and Ethics Executive: Sharon Blankenship,
☐ Independent Legal Counsel, Frank Queen

Office Staff: ☐ Ethics Specialist: Donald Parker

- I. Call to Order**
- II. Attendance**
- III. Review of Agenda**
- IV. Approval of Minutes**
 - i. Approval of April 4, 2023, minutes
 - ii. Approval of June 2, 2023, special called meeting minutes
- V. Old Business**
 - i. Self-initiated Complaints
- VI. New Business**
 - i. Review of Bylaws
 - ii. Probable Cause vs. Preponderance of Evidence
 - iii. Ethics Quarterly Report
 - iv. Topics and dates for next meeting
- VII. Open Discussion**
- VIII. Closed Session**
- IX. Adjournment**

Ethics Review Committee Meeting

Meeting Minutes

April 4, 2023

Hybrid: Office of Internal Audit and Ethics/Microsoft Teams

I. Call to Order

The Quarterly Ethics Review Committee meeting was called to order by Chairwoman Tasheena Parker at 1:03 pm on April 4, 2023, in-person and via Microsoft Teams.

II. Attendance

Marisa Cabe, Dale Robinson Jr., Monique Taylor, and Sharon Blankenship attended virtually. Tasheena Parker, Shirley Brady, and Donald Parker II attended in-person.

III. Review of Agenda

Tasheena presented the meeting agenda for review. Marisa made a motion to accept the agenda as presented. Monique seconded. All members present voted to approve the agenda as presented.

IV. Approval of minutes

Tasheena presented the meeting minutes for the quarterly meeting held on January 10, 2023. Shirley made a motion to approve the minutes as presented. Monique seconded. All members present voted to approve the January 10, 2023, quarterly meeting minutes as presented.

Tasheena presented the meeting minutes for the February 3, 2023, special-called meeting. Monique made a motion to approve the minutes as presented. Shirley seconded. All members present voted to approve the February 3, 2023, special called meeting minutes as presented.

V. Old Business

a. Cooling off period

Tasheena presented the information gathered by Ethics staff on cooling off periods in other jurisdictions. The committee felt this discussion should be held until a new Tribal Council was seated.

b. Lavish Gifts

The committee discussed the proposed Lavish Gift policy. Discussion centered around the need for Ethics staff to establish guidelines for Lavish

Gifts. Shirley made a motion to approve the proposed policy as presented with the stipulation that Ethics staff would establish internal policy regarding lavish gifts. Marisa seconded the motion. All members present voted to approve the Lavish Gift Policy with the stipulation that Ethics staff would establish internal policy regarding lavish gifts.

c. Self-Initiated Complaints

Discussion centered around the criteria it would take to qualify as a self-initiated complaint. The committee discussed holding this topic until the next meeting. Dale made a motion to table. Marisa seconded. All members present voted to table.

VI. New Business

a. Tribal Official Charges

Tasheena asked the Committee what they believed should happen once a Tribal official was charged with a crime. Although they may not be convicted it could still be an ethical violation. Shirley felt that we should get an opinion from our legal counsel to see how far we can go with this. Marisa agreed to ensure we did not violate the law.

b. Ethics Quarterly Report

Tasheena presented the Ethics Quarterly Report.

c. Topics and Dates for next meeting

Next Ethics Review Committee meeting will be July 11 @ 1 pm

VII. Open Discussion

Open discussion centered around the application process for ethics advocates.

VIII. Closed Session

No closed session.

IX. Adjournment

Meeting was adjourned at 1:54pm.

Minutes Approval

The above summarized minutes were presented to the Ethics Review Committee for approval on July 11, 2023.

The Committee took the following action:

Tabled.

These minutes were APPROVED by the Ethics Review Committee.

Jadheena Parker
Chairperson

07/11/2023
Date

Ethics Review Committee Special Called Meeting Minutes

Meeting Minutes

June 2, 2023

Hybrid: Office of Internal Audit and Ethics/ Microsoft Teams

I. Call to Order

The special-called meeting was called to order by Chairwoman Tasheena Parker at 1:03 pm on April 2, 2023, in person and via Microsoft Teams.

II. Attendance

Monique Taylor, Dale Robinson, and Sharon Blankenship attended virtually. Tasheena Parker, Shirley Brady, Karen French-Browning, Shirley Brady, Marisa Cabe, Doris Johnson, and Donald Parker II attended in person.

III. Closed Session

Tasheena asked for a motion to enter closed session. Marisa motioned to enter closed session. Shirley seconded. All members present voted to move into closed session.

Marisa motioned to exit closed session. Shirley seconded. All members present voted to move out of closed session.

IV. Open Discussion

Tasheena called for a motion on resolution ERC 23-01. Marisa motioned to approve ERC 23-01. Shirley seconded. All members present voted to approve resolution ERC 23-01.

Tasheena discussed the rotation of Ethics Advocates during investigations. Marisa was asked to assist with this investigation and Karen will shadow during to learn the process.

V. Adjournment

The meeting was adjourned at 10:18 am.

Minutes Approval

The above summarized minutes were presented to the Ethics Review Committee for approval on July 11, 2023.

The Committee took the following action:

Tabled.

These minutes were APPROVED by the Ethics Review Committee.

Jadwena Parker
Chairperson

07/11/2023
Date

will be returned to the complainant with explanation and if requested a meeting will be scheduled with the complainant.

2. If the initial review is satisfactory, the case manager will submit the determination to the Chief Audit and Ethics Executive for approval. Once approval is received from the Chief Audit and Ethics Executive, the Ethics staff will redact any identifying information from the complaint and the complaint will be sent to the respondent for an opportunity to respond. The respondent's response must be in writing and submitted within 15 business days. An extension may be requested and may be granted if justified.
3. Upon receipt of response, the case manager and the Chief Audit and Ethics Executive will review the complaint, response, and any supporting documentation provided and determine if an investigation is warranted or if the complaint should be dismissed. The case manager will then submit this recommendation to the Audit and Ethics committee or designated subcommittee for review and approval.
4. If an investigation is not warranted and the complaint is dismissed a letter will be sent to the complainant and respondent informing them of the decision.

[E5.3 Self-Initiated Complaints](#)

[The Ethics staff may submit a resolution recommending the initiation of a complaint to the Audit and Ethics Committee or designated subcommittee on its own motion without a signed complaint. The recommendation must include documented justification. If approved, the complaint will follow the same process outlined above.](#)

E6 INVESTIGATIONS

E6.1 Investigation

The case manager/lead investigator will initiate an investigation of the allegation upon approval by the Audit and Ethics Committee or designated subcommittee. If a conflict of interest exists, the Audit and Ethics Committee may designate a special investigative subcommittee or hire an outside independent investigator.

B1.2 Self- Initiated Complaints through the Hotline

1. If an anonymous complaint comes through the hotline, Ethics staff will evaluate the complaint for completeness and jurisdiction. Criteria to be considered:
 - a. Clearly identifies the respondent.
 - b. Is the subject of the complaint a Tribal Official as outlined in Chapter 117-45 of the Tribal Code?
 - c. Have similar allegations been received?
 - d. Is the information contained within the complaint public knowledge?
 - e. Was the information discovered during another investigation or audit?
 - f. Is enough information provided in the complaint that the respondent should reasonably be able to understand the allegations against them?
 - g. Does the complaint deal with an issue that is 3 years old or less?
 - h. The complaint does not detail a criminal act or an act that is the subject of an ongoing criminal, administrative, or personnel proceeding?
 - i. Do the facts in the complaint, if proven to be true, constitute an ethical violation as outlined in Sec. 117-45.3 of the Cherokee Code?
2. If information is missing from the complaint, Ethics staff will message the complainant in the follow-up section of Ethics Point and notify them they have 10 business days to submit the missing information.
3. If the complaint is complete, a meeting will be scheduled with the Ethics Review Committee to review the complaint.
4. The Ethics Review Committee will determine if the complaint will be dismissed or if the complaint should be sent to the respondent for a response.
5. The complaint will be sent out to the respondent for a response.
6. The respondent will have 15 business days to respond to the allegation.
7. Within 5 business days of receiving the response, Ethics Staff will coordinate a meeting with the Ethics Review Committee to review the information.
8. A resolution will be drafted and presented to the Ethics Review Committee for a vote.
9. The Committee will evaluate the information presented and make a determination of whether to proceed with an investigation or dismiss the complaint.

EBCI Ethics Review Committee **Bylaws**

PURPOSE

It is the policy of the Eastern Band of Cherokee Indians that high moral and ethical standards among the elected officials, appointed officials, and executive staff employees are necessary in order to:

1. Eliminate conflicts of interest in Tribal offices
2. Promote and strengthen the faith and confidence of enrolled members in their government
3. Improve standards of Tribal service
4. Preserve the sacred public trust

The Code of Ethics provides a mechanism whereby the Tribe may hold elected officials accountable for their conduct in performing the duties and responsibilities of their Tribal office.

CODE OF CONDUCT

Each member of the Ethics Review Committee shall pledge, via oath or affirmation, his/her commitments to keep information learned through committee membership in strict confidentiality; to disclose all material perceived or actual conflicts of interest, as defined by the Office of Internal Audit and Ethics Policies and Procedures, he/she may have with respect to issues that may arise in committee discussion and work; to abstain from voting on a question in which he/she or a member of his/her immediate family has a perceived or actual conflict of interest.

Each committee member shall sign a Confidentiality Agreement, which shall be kept on file in the Office of Internal Audit and Ethics.

ARTICLE I-DEFINITIONS

- 1.1 Ethics Review Committee. The term "Ethics Review Committee" refers to the Ethics Review Committee of the Eastern Band of Cherokee Indians. The Ethics Review Committee is a sub-committee of the Audit and Ethics Committee charged with establishment, promotion, regulation, and enforcement of minimal standards of ethical conduct binding upon all Tribal Officials.
- 1.2 Chairperson. The term "Chairperson" refers to the selected Chair member of the Ethics Review Committee, unless otherwise noted. The Ethics Officer will serve as Chairperson for each meeting. In the event of a conflict of interest, a Chairperson will be selected from the voting members to conduct a scheduled meeting in whole or in part.
- 1.3 Tribal Resources. The term "Tribal Resources" refers to instruments belonging to, held by, or received by the EBCI utilized for the economic, social, and political development of the EBCI as a community; and the Tribal offices and programs of the EBCI. Such instruments may include but are not limited to the following:

- A. Land, physical property, and services owned, provided, distributed, administered, or allocated by Tribal officials that have been paid for, subsidized, or otherwise acquired by the offices and agencies of the EBCI;
 - B. Funds and other financial assets of the EBCI; and
 - C. Other Tribal materials made available to Tribal officials while acting in an official capacity, which includes documentation, communications, and other records made available to a Tribal Official.
- 1.4 Personal Interest. The term “Personal Interest” means any interest in which there exists a likelihood for direct or indirect gain of any kind, including, but not limited to, employment contracts, benefits, salaries, funding, or ownership or investment held by a Tribal Official, employee, or immediate family member of Tribal officials.
- 1.5 Conflict of Interest. The term “Conflict of Interest” shall be deemed to arise when the elected or appointed official, or executive staff employee or any member of their immediate family, or an organization or firm which employs such official, executive staff employee or family member has a financial or other interest in the firm or person selected for the contract or grant award.
- 1.6 Immediate Family. The term “Immediate Family” shall be defined as spouse, parent, child or brother or sister.

ARTICLE II-COMPOSITION

2.1 Number, Tenure, & Qualifications. The Ethics Review Committee shall be comprised of:

- A. Eight (8) **Voting Members**, with Five (5) voting members of the Ethics Review Committee constituting a quorum.
 - a) Ethics Officer or other designated staff
 - b) Audit and Ethics Committee Chair or other designated voting committee member
 - c) Ethics Advocates
- B. Two (2) **Advisory Members**
 - a) Chief Audit and Ethics Executive
 - b) Independent Legal Counsel
- C. Two (2) Other **Non-Voting Members**
 - a) Ethics Specialist
 - b) Internal Audit Staff as needed

2.2 Qualifications for Committee Membership. To serve as an Ethics Advocate, the following requirements must be met:

- A. Must be enrolled member of the Eastern Band of Cherokee Indians and a resident of Swain, Jackson, Haywood, Graham, Macon, Cherokee County or Buncombe County
- B. Must be 22 years of age or older
- C. Must have a Bachelor's Degree or higher, J.D preferred
- D. Cannot be a Tribal Official as defined by Cherokee Code 117-45.1(a)(1)
- E. Cannot have any pending criminal charges or felony convictions

2.3 Term for Ethics Advocates. Ethics Advocates will be elected every four (4) years.

- A. The Audit and Ethics Committee will identify and select a member of each township (Big Cove, Birdtown, Paintown, Snowbird/Cherokee County, Wolfstown and Yellowhill) to serve as an Ethics Advocate.

ARTICLE III-MEETINGS

3.1 Regular Meetings. Regular meetings shall be held at least quarterly by the Ethics Review Committee. Additional meetings can be called at the request of the Ethics Officer or Chairperson.

- A. Agendas. The Ethics Officer shall establish the agenda for the Ethics Review Committee.
- B. Minutes. The Ethics Specialist shall ensure complete and accurate meeting minutes are kept of all meetings. The minutes shall be amended and approved at the start of each meeting. Corrections shall be noted in the minutes and kept on file by the Ethics Specialist in the Office of Internal Audit and Ethics.
- C. Quorum. Five voting members will constitute a quorum. If any member is disqualified or abstains from participating, the disqualified member shall not be counted for this quorum requirement. In the event of a non-vote, the issue will be sent to the Audit and Ethics Committee.
- D. Electronic Vote. A vote may be requested electronically. If at least three voting members object to deciding electronically, a meeting shall be called.

3.2 Emergency Meetings. The Chairperson may call emergency meetings with 24-hour prior notice to the Ethics Review Committee members, specifying the time and place of such meeting and the business to be transacted at such meeting. A quorum shall be required to conduct business at emergency meetings.

- A. Teleconference meetings shall be acceptable but should be limited to emergency situations. Quorum requirements still apply.

Attendance. Members of the Ethics Review Committee shall endeavor to attend all meetings, unless excused by the Ethics Review Committee. Three consecutive absences of an Ethics Review Committee member shall be considered cause for removal by the Audit and Ethics Committee. In order to comply with the provision of attendance contained herein said bylaws:

- A. A signature sheet will be available at the beginning of each in-person meeting, for each committee member, both voting and non-voting to sign in on

- B. Attendance will be recorded by the Chairperson for all virtual meetings.

ARTICLE IV-RESPONSIBILITIES

- 4.1 General. The duties and functions of the Ethics Review Committee shall be consistent with these Bylaws, Chapter 117 of the Cherokee Code, and other applicable laws and shall be as follows:
- A. The Ethics Review Committee shall meet at least quarterly.
 - B. The Ethics Review Committee shall assist with the development and implementation of key ethics and compliance initiatives.
 - C. The Ethics Review Committee shall evaluate resources needed to carry out Ethics Program Objectives and make recommendations to the Audit and Ethics Review Committee as needed.
 - D. The Ethics Review Committee shall optimize information flow and coordination between the Ethics Program and other relevant functions.
 - E. The Ethics Review Committee shall review and approve policies and procedures for the Ethics Program.
 - F. The Ethics Review Committee shall review potential ethics and compliance issues and their resolution.
 - G. The Ethics Review Committee shall review and act on complaints.
 - H. The Ethics Review Committee shall authorize and conduct investigations when warranted.
 - I. The Ethics Review Committee shall review results of investigations and prepare and approve findings of facts.
 - J. The Ethics Review Committee shall present findings of facts to the Audit and Ethics Review Committee for final decision and action on complaints.
 - K. The Ethics Review Committee shall present quarterly updates to the Audit and Ethics Review Committee on the activity of the Ethics Program.
- 4.2 Bylaws. The Ethics Review Committee shall adopt or amend the Ethics Review Committee Bylaws, provided the Bylaws shall not contain provisions inconsistent with or in violation of the provisions of applicable law. The Ethics Review Committee shall review the Ethics Bylaws during the last quarter of the fiscal year. If amendments to the Bylaws are recommended, the amendments must be disseminated to the appropriate personnel. The Bylaws and any amendments shall be approved by the Audit and Ethics Committee as authorized by C.C §117-110 (b)

ARTICLE V-FISCAL YEAR

The fiscal year for the Ethics Review Committee shall begin on the first day of October each year and end the last day of the following September.

ARTICLE VI-COMPENSATION

Members of the Ethics Review Committee not currently receiving wages reported on a W-2 by the Tribe or its component units or enterprises shall be paid a stipend for all meetings attended. The Audit and Ethics Committee shall determine the amount of the stipend.



Quarterly Report

July
2023

Ethics Review Committee



OFFICE OF
INTERNAL AUDIT AND ETHICS
EASTERN BAND OF CHEROKEE INDIANS

Administrative

Continuing Professional Development

Staff	Title	Certifications	CPES FYTD	Training Attended
T. Parker	Ethics Officer	LPEC, THRP, CFE	41.20	<ul style="list-style-type: none"> ❖ Self-Created Stress- Don't Believe Everything You Think!* ❖ From WorldCom to Theranos: The Journey of a Whistleblower* ❖ Conducting Internal Investigations Parts I-IV* ❖ Pioneers in Business Ethics: Grit, Grace, & Gratitude* ❖ ACFE Annual Fraud Conference*
D. Parker II	Ethics Specialist	LPEC, THRP, CFE	39.00	<ul style="list-style-type: none"> ❖ From WorldCom to Theranos: The Journey of a Whistleblower* ❖ Investigative Training Techniques Parts I-IV* ❖ ACFE Annual Fraud Conference*

*Virtual (webinars, eSeminars, etc.) **self-study

Ethics

Ethics Quarterly Gift Reporting

FY23	Q1 OCT-DEC	Q2 JAN-MAR	Q3 APR-JUN ¹	Q4 JUL-SEP
DUE	113	115	121	
RECEIVED	113	115	2	
DIFFERENCE	0	0	119	
PERCENTAGE REPORTING	100%	100%	2%	
Dollar (\$) Reported Received	\$8,319.00	\$272.00	\$0	
Dollar (\$) Reported Given	\$11,024.85	\$11,649.00	\$895.00	

¹Quarter 3 Reports are due on July 17

Ethics Complaints and Other Inquiries

FY23	Received	Open	Closed	Withdrawn	Deferred	Total	FY22	FY21
Complaints	1	1	1	5		8	17	2
Inquiries/Advisory Opinions						42	42	35

Tribal Official Education Requirement

FY23	Q1	Q2	Q3	Q4	Total
New Tribal Official Training	3	8	6		17
Refresher Training	4	53	5		62

Boards, Committees, and Commission Reviews

Name	Report Date	Number of Observations
Election Board	November 16, 2022	1
Tribal Casino Gaming Enterprise	November 28, 2022	1
TERO	February 17, 2023	2

Other

- Quarterly Newsletter sent out to Tribal Officials on June 2
- Don and I attended the Annual ACFE Fraud Conference virtually on June 12-14
- Held Quarterly Training for Tribal Officials on June 27
 - Topic was Moral Muteness & Ethical Blindness
 - 6 participants in attendance
 - Recording of Training will be available on our website soon
- Sent out updated copy of our Ethics Rules of Procedure to Tribal Officials on April 24 to reflect the addition of the Lavish Gift Policy
- Administered and collected 1 fine for failing to report for FY23Q1
- Developed a Quality Assurance Workbook and Planning document for complaints
 - Continuing to look at ways enhance efficiency
- Transitioned all data over to SharePoint and Microsoft Lists
 - Continuing to explore features