

## **ETHICS REVIEW COMMITTEE MEETING AGENDA**

Hybrid: Microsoft Teams Virtual Meeting/In-Person  
October 10, 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 July 11, 2023, minutes
  - ii. Approval of August 4, 2023, special called meeting minutes
  - iii. Approval of September 5, 2023, special called meeting minutes
  - iv. Approval of September 22, 2023, special called meeting minutes
- V. Old Business**
  - i. Self-initiated complaints
  - ii. Proposed changes to bylaws
- VI. New Business**
  - i. Review of ethics rules of procedure
  - ii. Ethics quarterly report
  - iii. Topics and dates for next meeting
- VII. Open Discussion**
- VIII. Closed Session**
- IX. Adjournment**

# **Ethics Review Committee Meeting**

## *Meeting Minutes*

July 11, 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 1:01 pm on July 11, 2023, in-person and via Microsoft Teams.

### **II. Attendance**

Monique Taylor, Reva Ballew, and Sharon Blankenship attended virtually via Microsoft Teams. Tasheena Parker, Shirley Brady, Karen French-Browning, Dale Robinson Jr., and Donald Parker II attended the meeting in-person.

### **III. Review of Agenda**

Tasheena presented the meeting agenda for review. Shirley made a motion to accept the agenda as presented. Karen 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 April 4, 2023. Monique made a motion to approve the minutes as presented. Monique seconded. All members present voted to approve the April 4, 2023; quarterly meeting minutes as presented.

Tasheena presented the meeting minutes for the June 2, 2023, special-called meeting. Monique made a motion to approve the minutes as presented. Reva seconded. All members present voted to approve the June 2, 2023, special called meeting minutes as presented.

### **V. Old Business**

#### **a. Self-initiated complaints**

Tasheena presented the self-initiated complaint policy and the internal procedures that had been developed since the April 4, 2023, Ethics Review Committee meeting. The committee held a discussion on the issue but decided they would like input from all ethics advocates before proceeding. Shirley made a motion to table. Reva seconded. All members present voted in favor of tabling.

## **VI. New Business**

### **a. Review of Bylaws**

The committee reviewed the by-laws.

Proposed changes were as follows:

Section 1.4: remove "likelihood for" from sentence one.

Section 1.6: Look at adding HR definition of family.

Section 2.3 Birdtown"/add 3200 acre tract" and Wolftown"/add Big Y"

Article IV: Change "shall" to "may" in sentence one

### **b. Probable Cause vs. Preponderance of Evidence**

Tasheena presented the research performed by ethics staff regarding using the language probable cause or preponderance of evidence. Ethics staff will ask legal for an analysis and bring those recommendations forward during the next meeting.

### **c. Ethics Quarterly Report**

Tasheena Presented the Ethics Quarterly Report.

### **d. Topics and Dates for next meeting**

Next Ethics Review Committee meeting will be held on October 10 at 1:00 pm.

## **VII. Open Discussion**

Tasheena updated the committee on the status of complaint 2023-1-63.

## **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 October 10, 2023.

The Committee took the following action:

Tabled.

✓ These minutes were APPROVED by the Ethics Review Committee.

Jasheena Parker  
Chairperson

October 10, 2023  
Date

# **Ethics Review Committee Special Called Meeting Minutes**

## *Meeting Minutes*

August 4, 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 August 4, 2023, in person and via Microsoft Teams.

### **II. Attendance**

Monique Taylor, Marisa Cabe, and Reva Ballew attended virtually via Microsoft Teams. Tasheena Parker, Shirley Brady, Dale Robinson, Karen French-Browning, Doris Johnson, and Donald Parker II attended the meeting in person.

### **III. Closed Session**

Tasheena asked for a motion to enter closed session. Shirley motioned to enter closed session. Monique seconded. All members present voted to move into closed session. The committee entered closed session at 1:04 pm

Shirley motioned to exit closed session. Monique seconded. All members present voted to move out of closed session. The committee exited closed session at 1:57 pm.

### **IV. General Session**

Tasheena called for a motion on the investigation report for complaint 2023-1-63. Shirley motioned to affirm a code of ethics violation for investigation report 2023-1-63. Doris seconded. All members present voted to affirm a code of ethics violation for investigation report 2023-1-63.

Dale motioned to recommend a fine in the amount of \$4,000. Shirley seconded. All members present voted to recommend a fine in the amount of \$4,000.

Doris motioned to add a recommendation to the investigation report that the respondent should not be considered for an appointed position for a period of two years. Shirley seconded. All members present voted to add this recommendation to investigation report 2023-1-63.

Tasheena called for a motion on ERC resolution 23-02. Marisa and Reva disclosed that they were distantly related to the respondent but felt they could remain impartial. The rest of the committee voted to allow them to participate. Dale motioned to approve resolution ERC 23-02 recommending complaint 2023-

6-90 be dismissed. Shirley seconded. All members present voted to approve resolution 23-02.

Tasheena called for a motion on ERC resolution 23-03. Reva recused herself from the discussion and vote due to prior knowledge of the complaint. Marisa motioned to approve ERC resolution 23-03 recommending complaint 2023-7-93 be investigated. Monique seconded. Tasheena, Marisa, Shirley, Karen, and Doris voted to approve ERC resolution 23-03. Dale voted to deny. Resolution 23-03 was approved.

**V. Open Discussion**

Dale updated the committee on the research he conducted on self-initiated complaints.

**VI. Adjournment**

The meeting was adjourned at 2:26 pm.

**Minutes Approval**

The above summarized minutes were presented to the Ethics Review Committee for approval on October 10, 2023.

The Committee took the following action:

Tabled.

These minutes were APPROVED by the Ethics Review Committee.

Tasheena Parker  
Chairperson

October 20, 2023  
Date

# **Ethics Review Committee Special Called Meeting Minutes**

## *Meeting Minutes*

September 5, 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 1:00 pm on September 5, 2023, in person and via Microsoft Teams.

### **II. Attendance**

Monique Taylor, Dale Robinson, Reva Ballew, and Marisa Cabe attended virtually via Microsoft Teams. Tasheena Parker, Shirley Brady, Karen French-Browning, and Donald Parker II attended the meeting in person.

### **III. Closed Session**

Tasheena asked for a motion to enter closed session. Monique motioned to enter closed session. Shirley seconded. All members present voted to move into closed session. Closed session began at 1:01 pm.

Shirley motioned to exit closed session. Monique seconded. All members present voted to move out of closed session. The committee exited closed session at 1:07 pm.

### **IV. Open Discussion**

Tasheena called for a motion on the investigation report for complaint 2023-7-93. Monique motioned to affirm the finding of no ethical violation and to issue the investigation report as the final decision. Shirley seconded. All members present voted to approve.

### **V. Adjournment**

The meeting was adjourned at 1:10 pm.

## **Minutes Approval**

The above summarized minutes were presented to the Ethics Review Committee for approval on October 10, 2023.

The Committee took the following action:

Tabled.

These minutes were APPROVED by the Ethics Review Committee.

Jasheena Parker  
Chairperson

October 10, 2023  
Date



# **Ethics Review Committee Special Called Meeting Minutes**

## *Meeting Minutes*

September 22, 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 11:02 am on September 22, 2023, in person and via Microsoft Teams.

### **II. Attendance**

Monique Taylor and Dale Robinson attended virtually via Microsoft Teams. Reva Ballew joined the meeting by phone. Tasheena Parker, Doris Johnson, Marisa Cabe, and Donald Parker II attended the meeting in person.

### **III. Closed Session**

Tasheena asked for a motion to enter closed session. Monique motioned to enter closed session. Marisa seconded. All members present voted to move into closed session. Closed session began at 11:03 am.

Monique motioned to exit closed session. Reva seconded. All members present voted to move out of closed session. The committee exited closed session at 11:36 am.

The committee was asked if they had any conflicts that might affect their ability to hear the complaint. Marisa and Reva disclosed that they were related to the respondent. Dale disclosed that given his position, he reported directly to the respondent. All ethics advocates stated they could remain impartial, and the rest of the committee agreed to allow them to participate.

Marisa motioned to approve resolution 23-04 recommending an investigation into complaint 2023-5-80. Monique seconded. Dale then made a motion to dismiss resolution 23-04. His motion did not receive a second. The committee then voted on the motion to approve resolution 23-04 recommending an investigation. Marisa, Doris, Monique, Reva, and Tasheena voted in favor of the motion. Dale voted against the motion. The motion to approve resolution 23-04 recommending an investigation into complaint 2023-5-80 was approved.

### **IV. Open Discussion**

Dale will assist with the investigation of complaint 2023-5-80. Doris will shadow to learn the process since she is new to the committee. A draft of the interview

questions will be sent to Dale and Doris for review and collaboration before interviews are scheduled.

Tasheena asked if there were any items that needed to be added to the agenda for the upcoming quarterly meeting. Dale mentioned he would like to discuss the internal process for evaluating complaints at the next meeting.

**V. Adjournment**

The meeting was adjourned at 11:41 pm.

**Minutes Approval**

The above summarized minutes were presented to the Ethics Review Committee for approval on October 10, 2023.

The Committee took the following action:

Tabled.

These minutes were APPROVED by the Ethics Review Committee.

Tasheena Parker  
Chairperson

October 10, 2023  
Date

1 **EBCI Ethics Review Committee**  
2 **Bylaws**

3 **PURPOSE**

4  
5 It is the policy of the Eastern Band of Cherokee Indians that high moral and ethical  
6 standards among the elected officials, appointed officials, and executive staff employees  
7 are necessary in order to:

- 8  
9 1. Eliminate conflicts of interest in Tribal offices  
10 2. Promote and strengthen the faith and confidence of enrolled members in their  
11 government  
12 3. Improve standards of Tribal service  
13 4. Preserve the sacred public trust  
14

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

18  
19 **CODE OF CONDUCT**

20  
21 Each member of the Ethics Review Committee shall pledge, via oath or affirmation,  
22 his/her commitments to keep information learned through committee membership in  
23 strict confidentiality; to disclose all material perceived or actual conflicts of interest, as  
24 defined by the Office of Internal Audit and Ethics Policies and Procedures, he/she may  
25 have with respect to issues that may arise in committee discussion and work; to abstain  
26 from voting on a question in which he/she or a member of his/her immediate family has a  
27 perceived or actual conflict of interest.  
28

29 Each committee member shall sign a Confidentiality Agreement, which shall be kept on  
30 file in the Office of Internal Audit and Ethics.  
31

32 **ARTICLE I-DEFINITIONS**  
33

- 34 1.1 Ethics Review Committee. The term “Ethics Review Committee” refers to the  
35 Ethics Review Committee of the Eastern Band of Cherokee Indians. The Ethics  
36 Review Committee is a sub-committee of the Audit and Ethics Committee  
37 charged with establishment, promotion, regulation, and enforcement of minimal  
38 standards of ethical conduct binding upon all Tribal Officials.  
39  
40 1.2 Chairperson. The term “Chairperson” refers to the selected Chair member of the  
41 Ethics Review Committee, unless otherwise noted. The Ethics Officer will serve  
42 as Chairperson for each meeting. In the event of a conflict of interest, a  
43 Chairperson will be selected from the voting members  
44 to conduct a scheduled meeting in whole or in part.  
45  
46 1.3 Tribal Resources. The term “Tribal Resources” refers to instruments belonging  
47 to, held by, or received by the EBCI utilized for the economic, social, and  
48 political development of the EBCI as a community; and the Tribal offices and  
49 programs of the EBCI. Such instruments may include but are not limited to the  
50 following:

- 51 A. Land, physical property, and services owned, provided, distributed,
- 52 administered, or allocated by Tribal officials that have been paid for,
- 53 subsidized, or otherwise acquired by the offices and agencies of the EBCI;
- 54 B. Funds and other financial assets of the EBCI; and
- 55 C. Other Tribal materials made available to Tribal officials while acting in an
- 56 official capacity, which includes documentation, communications, and other
- 57 records made available to a Tribal Official.

58  
59  
60 1.4 Personal Interest. The term “Personal Interest” means any interest in which  
61 there exists a ~~likelihood for~~ direct or indirect gain of any kind, including, but not  
62 limited to, employment contracts, benefits, salaries, funding, or ownership or  
63 investment held by a Tribal Official, employee, or immediate family member of  
64 Tribal officials.

65  
66 1.5 Conflict of Interest. The term “Conflict of Interest” shall be deemed to arise when  
67 the elected or appointed official, or executive staff employee or any member of  
68 their immediate family, or an organization or firm which employs such official,  
69 executive staff employee or family member has a financial or other interest in the  
70 firm or person selected for the contract or grant award.

71  
72 1.6 Immediate Family. The term “Immediate Family” shall be defined as  
73 spouse/live-in companion, parent/step, child/step/foster, sibling (or relatives  
74 raised as siblings in the home), grandparent and grandchild. ~~spouse, parent,~~  
75 ~~child or brother or sister.~~

76  
77  
78 ARTICLE II-COMPOSITION  
79

80 2.1 Number, Tenure, & Qualifications. The Ethics Review Committee shall be comprised  
81 of:

82  
83 A. Eight (8) **Voting Members**, with Five (5) voting members of the Ethics  
84 Review Committee constituting a quorum.

- 85
- 86 a) Ethics Officer or other designated staff
- 87 b) Audit and Ethics Committee Chair or other designated voting
- 88 committee member
- 89 c) Ethics Advocates
- 90

91 B. Two (2) **Advisory Members**

- 92
- 93 a) Chief Audit and Ethics Executive
- 94 b) Independent Legal Counsel
- 95

96 C. Two (2) Other **Non-Voting Members**

- 97
- 98 a) Ethics Specialist
- 99 b) Internal Audit Staff as needed
- 100

101 D. Qualifications for Committee Membership. To serve as an Ethics Advocate,

- 102 the following requirements must be met: Must be enrolled member of the  
103 Eastern Band of Cherokee Indians and a resident of Swain, Jackson,  
104 Haywood, Graham, Macon, Cherokee County or Buncombe County  
105 E. Must be 22 years of age or older  
106 F. Must have a Bachelor's Degree or higher, J.D preferred  
107 G. Cannot be a Tribal Official as defined by Cherokee Code 117-45.1(a)(1)  
108 H. Cannot have any pending criminal charges or felony convictions  
109

110 2.2 Term for Ethics Advocates. Ethics Advocates will be elected every four (4) years.  
111

- 112 A. The Audit and Ethics Committee will identify and select a member of each  
113 township (Big Cove, Birdtown/[3200 Acre Tract](#), Paintown,  
114 Snowbird/Cherokee County, Wolfstown/[Big Y](#) and Yellowhill) to serve as  
115 an Ethics Advocate.  
116

### 117 ARTICLE III-MEETINGS

118  
119

120 3.1 Regular Meetings. Regular meetings shall be held at least quarterly by the Ethics  
121 Review Committee. Additional meetings can be called at the request of the Ethics  
122 Officer or Chairperson.  
123

- 124 A. Agendas. The Ethics Officer shall establish the agenda for the Ethics Review  
125 Committee.  
126 B. Minutes. The Ethics Specialist shall ensure complete and accurate meeting  
127 minutes are kept of all meetings. The minutes shall be amended and  
128 approved at the start of each meeting. Corrections shall be noted in the  
129 minutes and kept on file by the Ethics Specialist in the Office of Internal Audit  
130 and Ethics.  
131 C. Quorum. Five voting members will constitute a quorum. If any member is  
132 disqualified or abstains from participating, the disqualified member shall not  
133 be counted for this quorum requirement. In the event of a non-vote, the issue  
134 will be sent to the Audit and Ethics Committee.  
135 D. Electronic Vote. A vote may be requested electronically. If at least three  
136 voting members object to deciding electronically, a meeting shall be called.  
137

138 3.2 Emergency Meetings. The Chairperson may call emergency meetings with 24-hour  
139 prior notice to the Ethics Review Committee members, specifying the time and place  
140 of such meeting and the business to be transacted at such meeting. A quorum shall  
141 be required to conduct business at emergency meetings.

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

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

- 149 A. A signature sheet will be available at the beginning of each ~~in-person~~ meeting,  
150 for each committee member, both voting and non-voting to sign in on. The chair  
151 will make a note of those committee members attending virtually and document it  
152 on the signature sheet.

153 ~~A.—Attendance will be recorded by the Chairperson for all virtual meetings.~~

154  
155 ARTICLE IV-RESPONSIBILITIES  
156

157 4.1 General. The duties and functions of the Ethics Review Committee shall be  
158 consistent with these Bylaws, Chapter 117 of the Cherokee Code, and other  
159 applicable laws and shall be as follows:  
160

- 161 A. The Ethics Review Committee shall meet at least quarterly.
- 162 B. The Ethics Review Committee shall assist with the development and  
163 implementation of key ethics and compliance initiatives.
- 164 C. The Ethics Review Committee shall evaluate resources needed to carry out  
165 Ethics Program Objectives and make recommendations to the Audit and  
166 Ethics Review Committee as needed.
- 167 D. The Ethics Review Committee shall optimize information flow and  
168 coordination between the Ethics Program and other relevant functions.
- 169 E. The Ethics Review Committee shall review and approve policies and  
170 procedures for the Ethics Program.
- 171 F. The Ethics Review Committee shall review potential ethics and compliance  
172 issues and their resolution.
- 173 G. The Ethics Review Committee shall review and act on complaints.
- 174 H. The Ethics Review Committee shall authorize and conduct investigations  
175 when warranted.
- 176 I. The Ethics Review Committee shall review results of investigations and  
177 prepare and approve findings of facts.
- 178 J. The Ethics Review Committee shall present findings of facts to the Audit and  
179 Ethics Review Committee for final decision and action on complaints.
- 180 K. The Ethics Review Committee shall present quarterly updates to the Audit  
181 and Ethics Review Committee on the activity of the Ethics Program.  
182

183 4.2 Bylaws. The Ethics Review Committee shall adopt or amend the Ethics Review  
184 Committee Bylaws, provided the Bylaws shall not contain provisions inconsistent  
185 with or in violation of the provisions of applicable law. The Ethics Review Committee  
186 shall review the Ethics Bylaws during the last quarter of the fiscal year. If  
187 amendments to the Bylaws are recommended, the amendments must be  
188 disseminated to the appropriate personnel. The Bylaws and any amendments shall  
189 be approved by the Audit and Ethics Committee as authorized by C.C §117-110 (b)  
190

191 ARTICLE V-FISCAL YEAR  
192

193 The fiscal year for the Ethics Review Committee shall begin on the first day of October  
194 each year and end the last day of the following September.  
195

196  
197 ARTICLE VI-COMPENSATION

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

# SECTION E: ETHICS RULES OF PROCEDURE



**EASTERN BAND OF CHEROKEE INDIANS**  
OFFICE OF INTERNAL AUDIT AND ETHICS

## Table of Contents

Section E: Ethics Rules of Procedure .....	1
E1 General Rules .....	1
E1.1 Purpose.....	1
E1.2 Authority to Adopt Rules.....	1
E1.3 Amendment to Rules.....	1
E1.4 Jurisdiction.....	1
E2 Definitions .....	1
E3 Ethics Review Committee.....	3
E3.1 Functions .....	3
E3.2 Membership .....	3
E3.3 Ethics Advocates.....	4
E3.4 Meetings.....	5
E4 Advisory Opinions.....	5
E4.1 Subject of an Advisory Opinion .....	5
E4.2 Persons Eligible to Receive an Advisory Opinion .....	5
E4.3 Request for an Advisory Opinion.....	6
E4.4 Processing Advisory Opinions.....	6
E5 Complaints.....	7
E5.1 Subject Matter of a Complaint .....	7
E5.2 Receipt of Complaints .....	7
E6 Investigations.....	8
E6.1 Investigation .....	8
E6.2 <del>Probable Cause</del> <u>Ethics Violation</u> Determination .....	9
E6.3 Final Decisions .....	10
E6.4 Finding of Violation .....	10
E7 Reporting Requirements .....	11
E7.1 Attestation and Disclosure .....	11



E7.2 Fraud, Waste, Abuse, Corruption and Code of Ethics Violations .....	11
E7.3 Charges and Convictions .....	12
E7.4 Gifts, Donations and Contributions .....	12
E8 Education Program .....	15
E9 Review of Actions by Boards, Committees, and Commissions .....	15
E9.1 Quarterly Review Plan .....	15
E9.2 Review Procedures .....	15
E9.3 Report .....	16

## SECTION E: ETHICS RULES OF PROCEDURE

### E1 GENERAL RULES

#### E1.1 Purpose

These rules are adopted to establish the practice and procedures to be followed by the Audit and Ethics Committee, designated subcommittees, and the Office of Internal Audit and Ethics in fulfilling responsibilities as specified by Ordinance 152(2016), Cherokee Code Chapter 117-45.

#### E1.2 Authority to Adopt Rules

These rules are adopted under the authority granted to the Audit and Ethics Committee under Cherokee Code Chapter 117 Article V.

#### E1.3 Amendment to Rules

Rules of Procedure shall be reviewed as necessary but no less than annually. They may be amended at any regular meeting of the Audit and Ethics Committee by a majority vote of those present.

#### E1.4 Jurisdiction

The jurisdiction of the Audit and Ethics Committee regarding the enforcement of the Code of Ethics shall extend to any person required to comply with Cherokee Code Chapter 117-45.

### E2 DEFINITIONS

***Tribal officials.*** Any person who is:

- a) A Tribal officer as defined in Section 1 of the Charter and Governing Document;
- b) A member of the Cherokee School Board as defined in C.C Section 115-8;
- c) Serving as a member of an authority, board, committee, or commission, appointed by Tribal Council or the Executive Committee; or Principal Chief, and who is subject to removal by the appointing authority; or

- d) Appointed by Tribal Council or the Executive Committee or Principal Chief and who is subject to removal by the appointing authority, to carry out actions, provide guidance, or assistance to the Tribal Council or the Executive Committee or to a member of the Executive Committee.

***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.

***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.

***Conflict of interest.*** A 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.

***Immediate family.*** Shall be defined as spouse, parent, child, brother, or sister.

***EBCI.*** Refers to the Eastern Band of Cherokee Indians or Tribe.

***Ethics Review Committee.*** A special committee of the Audit and Ethics Committee established to support the Ethics Program.

## E3 ETHICS REVIEW COMMITTEE

### E3.1 Functions

The functions of the Ethics Review Committee shall be:

- Development and implementation of key ethics and compliance initiatives
- Evaluate resources needed to carry out Ethics Program objectives and make recommendations to the Audit and Ethics Committee as needed
- Optimize information flow and coordination between the Ethics Program and other relevant functions
- Review and approve policies and procedures for the Ethics Program
- Review potential ethics and compliance issues and their resolution
- Review and act on complaints
- Authorize and conduct investigations when warranted
- Review results of investigations and prepare and approve findings of facts
- Present findings of facts to the Audit and Ethics Committee for final decision and action on complaints
- Present quarterly update to the Audit and Ethics Committee on the activity of the Ethics Program

### E3.2 Membership

The Ethics Review Committee will consist of the following:

1. Voting Members
  - a) Ethics Officer
  - b) Audit and Ethics Committee Chair or other designated voting committee member
  - c) Ethics Advocates
2. Advisory Members
  - a) Chief Audit and Ethics Executive

- b) Independent Legal Counsel
3. Other Non-Voting Members
- a) Ethics Specialist
  - b) Internal Audit Staff as needed

### E3.3 Ethics Advocates

#### **Eligibility**

To serve as an Ethics Advocate the following requirements must be met:

- Must be an enrolled member and resident of one of the six Tribal townships of the Eastern Band of Cherokee Indians
- Must be 22 years of age or older
- Must have a Bachelor's Degree or higher, J.D. preferred
- Cannot be a Tribal Official as defined by Cherokee Code 117-45.1(a)(1)
- Cannot have any pending criminal charges or felony convictions

#### **Selection**

The Audit and Ethics Committee will identify and select a member of each township (Big Cove/Towstring, Birdtown/[3200 Acre Tract](#), Painttown, Snowbird/Cherokee County, Wolfstown/Big Y, and Yellowhill) to serve as an Ethics Advocate through an application process. Notification will be sent to each community club and announcements will be made in local newspapers and social media.

The Audit and Ethics Committee will review applications and will conduct interviews with approved applicants.

#### **Oath**

Each member selected to serve as an Ethics Advocate must take an oath as prescribed by the Audit and Ethics Committee.

#### **Term**

The regular term of an Ethics Advocate is four years. No Ethics Advocate may serve more than two consecutive four-year terms at one time but may serve again after a break in service of at least one year. Every four years the selection process will repeat.

### E3.4 Meetings

The Ethics Review Committee will hold, and conduct meetings as follows:

- Meetings will be called by the Ethics staff as needed.
- The Ethics staff shall arrange meetings, prepare agendas, and notify members.
- The Ethics Officer will serve as the Chair. In the event of conflict, a Chair will be selected from the Committee members.
- A quorum shall consist of 5 voting members. In the event of a non-vote, the issue will be sent to the Audit and Ethics Committee for review.
- The actions of a simple majority of members at a meeting at which a quorum is present shall constitute official acts of the Ethics Review Committee.
- On occasion, a vote may be requested and conducted electronically. If at least three voting members object to deciding electronically, a meeting shall be called.
- The Ethics Specialist will act as Secretary to document and maintain meeting minutes and official actions taken by the Ethics Review Committee.

## E4 ADVISORY OPINIONS

### E4.1 Subject of an Advisory Opinion

The Audit and Ethics Committee or designated subcommittee will issue a written advisory opinion on Cherokee Code Chapter 117, Article IV Section 117-45 Standards of Ethical Conduct to a person qualified to make a request under paragraph E4.2 of this section. The Audit and Ethics Committee or designated subcommittee will not issue an advisory opinion that concerns the subject matter of pending litigation known to the committee.

### E4.2 Persons Eligible to Receive an Advisory Opinion

A person who is a Tribal Official, which includes those elected to an office and appointments made by Tribal Council or the Executive Office, is subject to Cherokee Code Chapter 117, Article IV Section 117-45 Standards of Ethical Conduct and may request an opinion regarding interpretation or application.

### E4.3 Request for an Advisory Opinion

All requests of advisory opinions must be in writing and contain the following information:

1. Name, address and telephone number of the requesting party.
2. Office or appointment held.
3. Basis of the request for the advisory opinion. This shall include a written scenario with all relevant information for which ethical guidance is sought.
4. Requests for an advisory opinion may be submitted via mail, hand-delivered or emailed to [uia@nc-cherokee.com](mailto:uia@nc-cherokee.com). No request will be processed that does not contain sufficient information as required by this section.

### E4.4 Processing Advisory Opinions

1. All requests for advisory opinions will be time and date stamped, numbered and logged by the Ethics Staff.
2. The Ethics Officer or designee will make an initial determination of completeness and jurisdiction. If jurisdiction is not established, the requesting party will be sent a letter of denial. If jurisdiction is established but insufficient information is provided, the requesting party will be contacted and asked for additional information. The additional information must be provided within 15 business days or the request will not be processed.
3. Once jurisdiction and sufficient information are satisfied, the Ethics Officer or designee in consultation with legal counsel will make an initial determination of interpretation or application and will write a draft advisory opinion letter.
4. The draft advisory opinion letter will be submitted to the Audit and Ethics Committee or designated subcommittee for review and approval.
5. The approved advisory opinion letter will be sent to the requesting party and published on the Office of Internal Audit and Ethics' website (<https://uia.ebci-nc.gov>).

## E5 COMPLAINTS

### E5.1 Subject Matter of a Complaint

The Audit and Ethics Committee or designated subcommittee may only consider complaints concerning Cherokee Code Chapter 117, Article IV Section 117-45 Standards of Ethical Conduct. The Audit and Ethics Committee or designated subcommittee will not consider complaints regarding:

1. Allegations involving an ordinance outside of its jurisdiction.
2. Alleged violations that occurred and became known more than 3 years ago.
3. Alleged violations that are frivolous or groundless.
4. Alleged violations that purport potential criminal or other unlawful activity outside of its jurisdiction. These complaints will be referred to the appropriate authoritative agency.
5. Alleged violations that are subject to administrative or personnel proceedings or criminal investigation. These complaints will be deferred until the conclusion of such proceedings or investigations.

### E5.2 Receipt of Complaints

Complaints must be in writing. A form is available on the Office of Internal Audit and Ethics website at <https://oia.ebci-nsn.gov> or by visiting the office. The form does not have to be used but all elements contained in the form must be provided in the complaint. The name of the complainant will be kept confidential to every extent possible.

Each complaint received shall be time and date stamped, numbered and logged. A file will be established with the complaint and all supporting documents. The Chief Audit and Ethics Executive will assign a staff as case manager/lead investigator and the complaint will be processed as follows:

1. Within 5 business days the staff will conduct an initial review to determine the completeness and jurisdiction. If the initial review is not satisfactory, the complaint



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.

## 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.

The case manager/lead investigator will review relevant information and documents and will conduct interviews regarding the allegation. The allegation will be examined to determine whether it involves a potential violation of law, rules, or tribal policy.

Depending on the nature and severity of the allegation, other departments may need to be consulted.

All actions taken during the investigation will be documented and placed in the complaint file.

Investigations may include the following actions:

1. Conducting Interviews, including interviews with:
  - a) Complainant
  - b) Neutral third-party witnesses
  - c) Corroborative witnesses
  - d) Possible co-conspirators
  - e) Subject of the complaint
2. Collecting evidence, including:
  - a) Internal documents, such as personnel files, internal phone records, computer files and other electronic devices, e-mail, financial records, security camera videos, and physical and IT system access records.
  - b) External records such as public records, customer/vendor information, media reports, information held by third parties, and private detective reports.
3. Conducting computer forensic examinations
  - a) Reviewing and categorizing information collected
  - b) Analyzing computer-assisted data
  - c) Developing and testing hypotheses
4. Conducting evidence analysis, including:
  - a) Reviewing and categorizing information collected
  - b) Analyzing computer-assisted data
  - c) Developing and testing hypotheses

#### E6.2 ~~Probable Cause~~Ethical Violation Determination

Upon completion of an investigation, the assigned case manager/lead investigator will ~~make a determination~~ determine ~~of probable cause~~ if there is a preponderance of evidence supporting a finding ~~of an~~ potential ethical violation. The determination will be made in a written finding of fact and submitted to the Audit and Ethics Committee or designated subcommittee for review and appropriate action as follows:

1. Review the findings of fact and affirm or deny ~~an~~the probable cause ethics~~a~~  
violation determination. The Audit and Ethics Committee or designated subcommittee may request further investigation or a hearing prior to affirming or denying the ~~probable cause~~ determination.
2. If a determination of no ~~probable cause of a~~potential ethics violation is affirmed, the Audit and Ethics Committee or designated subcommittee shall dismiss the complaint with the issuance of a report to the Complainant and Respondent.
3. If a determination of ~~probable cause of an~~potential ethics violation is affirmed, the Audit and Ethics Committee or designated subcommittee shall prepare the final decision.

### E6.3 Final Decisions

The Audit and Ethics Committee shall have sixty (60) calendar days to issue a final decision based on the complaint, investigation and written findings of facts presented by the Ethics Officer or designated subcommittee. The final decision shall be reported to the appropriate parties.

### E6.4 Finding of Violation

If the Audit and Ethics Committee finds by clear and convincing evidence that a violation has been committed, a monetary fine shall be assessed. The Committee shall take the severity of the violation and any previous ethics violations into account when determining the amount of the fine, as outlined in the fine matrix below.

		<b>Violation History</b>			
		0	1-2	3-4	5 or more
<b>Severity</b>	1	\$250	\$500	\$750	\$1,000
	2	\$500	\$750	\$1,000	\$2,500
	3	\$750	\$1,000	\$2,500	\$5,000

- 1 Little to no impact or damages to the victim or tribe
- 2 Some but moderate impact or damages to the victim or tribe
- 3 Significant impact or damages to the victim or tribe

The Audit and Ethics Committee may deviate from the fine matrix and escalate the fine up to \$5,000 for any violation with aggravating factors including but not limited to failure to cooperate in an investigation, interfering with an investigation, providing false information, participating in criminal activity, or inflicting damages or losses more than \$5,000. In addition to a monetary fine, the Audit and Ethics Committee may impose/recommend a corrective action on the Tribal official.

The Audit and Ethics Committee will forward its findings to the appropriate agency, office, or appointing authority.

## E7 REPORTING REQUIREMENTS

### E7.1 Attestation and Disclosure

Tribal officials will file an Attestation and Disclosure statement with the Office of Internal Audit and Ethics upon election or appointment and no later than October 15 of every year thereafter. The Attestation and Disclosure Statement must be on a form prescribed by the Office of Internal Audit and Ethics and must include the following:

1. Attestation statement that the Tribal official received, read, understands and will abide by the Code of Ethics.
2. A list of the Tribal official's immediate family as defined in Cherokee Code 117-45.1(a)(5).
3. A list of businesses or entities in which the Tribal official or immediate family has a personal interest as defined in Cherokee Code 117-45.1(a)(3).

### E7.2 Fraud, Waste, Abuse, Corruption and Code of Ethics Violations

Tribal officials are responsible for reporting any potential fraud, waste, abuse, corruption or violations of the Code of Ethics. A hotline is available 24 hours 7 days a week. A report can be made by calling 800-455-9014 or on the web at [ebci.alertline.com](http://ebci.alertline.com). A report can also be made to any staff of the Office of Internal Audit and Ethics. Reports must include as much information as possible to aid in an investigation if warranted. Reports of ethical violations must be in writing as described in section E5.2.

### E7.3 Charges and Convictions

Tribal officials must notify the Office of Internal Audit and Ethics of any misdemeanor or felony charges or convictions immediately or as soon as reasonably possible but no later than 24 hours. Reports can be made by calling 828-359-7074 or 828-359-7072. Tribal Officials must submit relevant documents outlining the details of the charge or conviction within five (5) days of the occurrence. Subsequently, Tribal officials must submit documentation of the disposition of the charge or conviction within five (5) days of the disposition.

### E7.4 Gifts, Donations and Contributions

Tribal officials are required to report any gifts, donations, or contributions given or received each quarter as follows:

- 1<sup>st</sup> Quarter (October-December) due January 15
- 2<sup>nd</sup> Quarter (January-March) due April 15
- 3<sup>rd</sup> Quarter (April-June) due July 15
- 4<sup>th</sup> Quarter (July-September) due October 15

Reports must be made using the *Disclosure by Tribal Officials: Gifts, Donations or Contributions* form provided by the Office of Internal Audit and Ethics. The report must be completed and submitted even if the Tribal official did not give or receive gifts, donations or contributions in any quarter.

### What to Report

The items below must be reported. This list is not all inclusive.

- Money or items given to or received from constituents
- Money or items that are valued over \$50 given to or received from outside political officials/candidates or entities
- Expensive meals (anything over \$50)
- Complimentary rounds of golf
- Travel and/or lodging expenses paid for or reimbursed by an outside source

- Items received for free, a discounted rate or on better terms not available to all Tribal members.
- The cost of an event paid for by others on behalf of one or a select few Tribal officials designed as a platform to express political views.
- Campaign contributions
- Anything of value of \$100 or more given or received from other government entities
- If the value of an item is unknown or the reporting party cannot estimate it then it must be reported even if it would normally fall under the do not need to report category for gifts, donations or contributions.

### **What not to Report**

The items below are considered exceptions and do not need to be reported.

- Modest refreshments (donuts, coffee, hors-d'oeuvres)
- Greeting cards, pens, note pads, baseball caps, t-shirts or other items of nominal value
- Informational materials
- Discounts or rates if they are available to all Tribal members and are not offered due to the status of the Tribal official
- Items indigenous to Tribes shared as a cultural norm less than \$250 in value
- Rewards or prizes from competitions that are open to the public
- Inheritance
- Personal funds a Tribal official spends on their campaign
- Gifts given by or to immediate family members or based on a close personal relationship (i.e. Christmas gifts, birthday presents)
- Honorary degrees or awards from an educational, charitable, religious, professional, recreational, social, fraternal, public service, or civic organization
- Small tokens or gifts given to everyone attending a public event.
- Plaques or items of nominal value given to the Tribal official for speaking at a public event

- Church tithes
- Items given or received due to illness (i.e. cards, flowers, food)
- Items given or received to memorialize or honor a recently deceased person (i.e., cards, flowers, food)
- Items received for the activities the Tribal official performs outside of their duties as an elected or appointed official; or as product of their relationship with an immediate family member (i.e. retirement dinner, membership in a nonprofit, honorary dinner and/or award for academic or athletic achievement)
- Employee appreciation and recognition gifts paid from departmental budgets
- Gifts less than \$100.

The Office of Internal Audit and Ethics should be contacted for guidance if there is a question with any item not listed.

### **Lavish Gifts**

Tribal officials are prohibited from accepting lavish gifts given because of the Tribal official's position. Any gift with a value of more than \$250 will be considered lavish. If a Tribal official is offered or is sent a lavish gift, the Tribal official must immediately contact the Office of Internal Audit and Ethics for guidance. In limited circumstances, this prohibition may be exempted by the Ethics staff.

### **Failure to Report**

Tribal officials are subject to the following penalties if any reporting requirement is not met by the due date:

- First failure to report is a written reprimand
- Second failure to report is a \$50 fine
- Third failure to report is a \$100 fine
- Ongoing failure to report will be considered as a Code of Ethics violation.

If a Tribal official feels an imposed penalty was unfair or unjust they may request a review of the matter by the Audit and Ethics Committee or designated subcommittee.

## E8 EDUCATION PROGRAM

Tribal officials will complete an education program on the Standards of Ethical Conduct within ten (10) days of their election or appointment and a refresher course at least every two (2) years thereafter. The Office of Internal Audit and Ethics will develop the education program and refresher course to be made available to Tribal officials. Failure to complete the education program or refresher course as required will be considered as a Code of Ethics violation.

## E9 REVIEW OF ACTIONS BY BOARDS, COMMITTEES, AND COMMISSIONS

For purposes of reviewing actions of boards, committees and commissions to determine if ethical guidelines are being followed, each quarter the Ethics staff will conduct reviews of meeting minutes. Boards, committees, and commissions are responsible for maintaining minutes for all meetings conducted.

### E9.1 Quarterly Review Plan

A quarterly plan will be established for boards, committees, and commissions to be reviewed. A review notification memo will be sent to the chair two weeks prior to the anticipated on-site visit to communicate the upcoming review, to introduce staff and to outline expectations. The memo indicates that the staff will be in contact to schedule the on-site visit.

### E9.2 Review Procedures

While on-site the Ethics staff will carry out the review which will include:

1. Requesting and reviewing a copy of bylaws or governing documents
2. Requesting and reviewing a list of meeting dates for the period under review
3. Reviewing the minutes of each meeting and preparing summary spreadsheet
4. Interviewing personnel or members as necessary
5. Documenting other relevant observations



### E9.3 Report

At the conclusion of the review the Ethics staff will prepare a written report on the observations. Any potential violation noted will be handled through the complaint and investigation process as appropriate.



# Quarterly Report

October  
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	❖ 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	❖ 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	Q4 JUL-SEP <sup>1</sup>
DUE	113	115	117	117
RECEIVED	113	115	116	12
DIFFERENCE	0	0	1	105
PERCENTAGE REPORTING	100%	100%	99%	10%
Dollar (\$) Reported Received	\$8,319.00	\$272.00	\$5,380.00	\$502.00
Dollar (\$) Reported Given	\$11,024.85	\$11,649.00	\$8,965.76	\$4,958.42

<sup>1</sup>Quarter 4 reports are due on October 15

### Ethics Complaints and Other Inquiries

FY23	Received	Open	Closed	Withdrawn	Deferred	Total	FY22	FY21
Complaints	1	1	4	5		11	17	2
Inquiries/Advisory Opinions						44	42	35

### Tribal Official Education Requirement

FY23	Q1	Q2	Q3	Q4	Total
New Tribal Official Training	3	8	6	2	19
Refresher Training	4	53	5	2	64

### 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*

- Annual Attestation & Disclosure Statements due on October 15
- Quarterly Newsletter sent out to Tribal officials on September 14
- Don and I both completed the mandatory harassment training in August
- Working on:
  - Quality Assurance review of all Tribal official files and complaints
  - Comprehensive review of the Rules of Procedure and researching best practices
  - Strategic Plan for Ethics
- Complaints:
  - 2023-7-93 sent to the One Feather for Publication-dismissed after investigation
  - 2023-5-80 was re-opened at the request of the complainant; Interview scheduled October 6
  - 2023-9-102 received on September 26; response due back by October 25