



Poarch Creek Indians
Tribal Council Ordinance

TCO

2026-01

**ORDINANCE TO AMEND TITLE 33 (TRIBAL EMPLOYMENT RIGHTS),
CHAPTER VIII – COMPLAINTS AND ENFORCEMENT, SECTION 33-8-1
SUBSECTION (b); SECTION 33-8-2 SUBSECTIONS (b), (c), (d), (e) AND (f);
SECTION 33-8-3 SUBSECTION (a) AND ADD SUBSECTIONS (b), (c) AND (d);
SECTION 33-8-4 SUBSECTIONS (a), (b), (d), (f) AND (g) AND ADD
SUBSECTIONS (c) AND (e); SECTION 33-8-5 SUBSECTIONS (b) AND (c) AND ADD
SUBSECTIONS (a) AND (f); SECTION 33-8-6; AND SECTION 33-8-7, TO
THE POARCH BAND OF CREEK INDIANS TRIBAL CODE**

WHEREAS, the Poarch Band of Creek Indians (the “Tribe”) is a federally recognized Indian Tribe organized pursuant to 25 CFR, Part 83;

WHEREAS, the Constitution of the Poarch Band of Creek Indians authorizes the Tribal Council to enact, amend or repeal an ordinance;

WHEREAS, Title 33 (Tribal Employment Rights) of the Tribal Code was first enacted by TCO 88:001A dated March 27, 2008, and has been amended periodically as needed to improve Tribal Employment Rights processes;

WHEREAS, the Tribal Council wishes to further amend Title 33 (Tribal Employment Rights), Chapter VIII, Complaints and Enforcement, Section 33-8-1 Protest Procedures, Subsections (b) and (c), to clarify when administrative remedies apply in the protest process as follows:

Sec. 33-8-1 Protest Procedures

- (a) Tribal Government and all Tribal Commercial Entities shall have protest procedures to resolve disputes relating to their employment and procurements and shall in all instances disclose information regarding any such protest to the TERO Office.
- (b) A **e**Complainant must exhaust all **applicable** administrative remedies with Tribal Government or a Tribal Commercial Entity before pursuing a **e**Complaint against Tribal Government or the Tribal Commercial Entity **with the TERO Office. There are no administrative remedies required for Complaints filed under Chapter 4 of this Title.**

- (c) Reviews of protests against Tribal Government or the Tribal Commercial Entity ~~by the TERO Office~~ will be limited to the following:
 - (1) Violations of this TERO Title; and/or
 - (2) Violations of Tribal Government's or a Tribal Commercial Entity's protest procedures for failure to review a ~~e~~Complaint or protest that should fall under this TERO Title. Protests received by the TERO Office other than those specified above will be referred to Tribal Government or the Tribal Commercial Entity.

WHEREAS, the Tribal Council wishes to further amend Title 33 (Tribal Employment Rights), Chapter VIII, Complaints and Enforcement, Section 33-8-2 Complaint, Subsections (b), (c), (d), (e), and (f), to amend and clarify the timing to file Complaints and how Complaints are reviewed by the Tribal Regulatory Commission as follows:

Sec. 33-8-2 Complaint

- (a) Subject to Section 33-8-1, any Tribal Employee or Certified Business or applicant for the foregoing who believes that an Employer or Contractor has violated rights protected by this Title may file a written ~~e~~Complaint with the Commission.
- (b) The ~~e~~Complaint must be sworn to by the ~~e~~Complainant and shall be filed with the Regulatory Affairs Division:
 - (1) Chapter III (Indian Preference): ~~w~~Within twenty (20) business days after the ~~e~~Complainant's receipt of notice of exhaustion of all administrative remedies.
 - (2) Chapter IV (Fair Employment) or Chapter VII (Right to Work): ~~for any alleged violation of Chapter III of this Title or w~~Within six (6) months after the date of the most recent incident(s) for any alleged violation of those Chapters Chapters IV-VII of this Title.

The ~~e~~Complaint shall be in writing, signed by the ~~e~~Complainant, and describe the Employer's or Contractor's action and how that action has violated ~~this~~-Title 33.

- (c) Any person, group of persons, organization, or entity who believes that an action by the ~~TERO~~Regulatory Affairs Division Director or ~~TERO~~ staff is in excess of the authority granted by this Chapter or is otherwise in violation of Tribal law may file a ~~e~~Complaint with the Legal Department, who will act in place of TERO staff in providing support to the Commission Tribal Council. The ~~e~~Complaint must be filed no later than five ten (510) calendar days from the date of the action (or omission) upon which the ~~e~~Complaint is based. A hearing on such ~~e~~Complaint shall be heard pursuant to Section 33-8-~~64~~ below.

- (d) Complaints filed with the Commission pursuant to this Title shall be filed at the Regulatory Affairs Department. Upon ~~the filing receipt~~ of a ~~e~~Complaint, the Regulatory Affairs Division Director, or his or her designee, shall ~~simultaneously~~ forward notice of the copies of the Complaint to both the Commission and a summary to the Tribal Council that shall include the names of the parties and the general nature of the Complaint.

- (e) ~~Upon receipt~~At the next regularly scheduled meeting, no later than thirty (30) days after receipt of the Complaint, the Commission will review the Complaint ~~at its next regularly scheduled meeting to determine whether jurisdictional requirements have been met in accordance with Section 33-8-3 below. If jurisdiction is confirmed, the Commission shall~~ and prepare a notice of hearing issued to the Complainant and Respondent(s). The notice of hearing shall set a hearing date as soon as practical but no more than thirty (30) days after the Commission completes its initial review of the complaint establishes jurisdiction.

- (f) If a hearing is scheduled, a copy of the Complaint shall be sent to the Respondent(s) and the Respondent(s) shall file a written response to the Complaint within seven (7) days from the date received, which shall be provided to the Commission and to the Complainant.

- (g) Complainants and Respondents may attempt to resolve or settle their disputes at any time. If the parties reach a settlement, the parties shall notify the Commission in writing and the Commission shall enter an order in accordance with the agreement of the parties to the settlement.

WHEREAS, the Tribal Council wishes to further amend Title 33 (Tribal Employment Rights), Chapter VIII, Complaints and Enforcement, Section 33-8-3 Jurisdiction, Subsections (a), (b), (c), and (d), to amend the process of how and when the Tribal Regulatory Commission determines jurisdiction to hear a Complaint as follows:

Sec. 33-8-3 Jurisdiction

- (a) The Commission ~~upon the advice of counsel~~ shall review the Complaint at the next regularly scheduled meeting, no later than thirty (30) days after receipt of the Complaint, to determine whether the jurisdictional requirements have been met. Specifically, the Commission will determine whether:
 - (1) The ~~e~~Complainant has met the filing deadline; and
 - (2) The facts as stated allege that an Employer or Contractor has committed a violation of the TERO Title.

- (b) If the Commission, upon the advice of counsel, determines that the Complainant has not satisfied the jurisdictional requirements, the Commission may dismiss the Complaint without any further proceedings. If the Complaint is dismissed, the TERO staff will prepare a letter to the Complainant explaining the finding and advising of the appeal process.
- (cb) If the complainant has not satisfied the jurisdictional requirements, the Commission shall dismiss the complaint and/or refer the complaint to the appropriate entity with jurisdiction, stating the basis, in writing, therefore, after the hearing. If the Commission cannot determine whether the Complainant has met the jurisdictional requirements based solely on the information provided in the written Complaint, the Commission shall request additional documentation from the Complainant to show jurisdictional requirements are met. Complainant shall have seven (7) days to provide additional jurisdictional information.
- (d) If additional jurisdictional documents are provided by the Complainant, the Commission may find it has jurisdiction or may find no jurisdiction. If jurisdiction is found, the Commission shall proceed with scheduling a hearing on the merits of the Complaint within thirty (30) days of establishing jurisdiction. Any pre-hearing finding of jurisdiction shall be a rebuttable presumption and the Respondent may submit evidence and testimony at the hearing disputing jurisdiction.

WHEREAS, the Tribal Council wishes to further amend Title 33 (Tribal Employment Rights), Chapter VIII, Complaints and Enforcement, Section 33-8-4 Hearing Procedures, Subsections (a), (b), (c), (d), (e), (f), and (g) to amend the hearing procedures to allow for easier flow of information between the parties and a process to appoint a Special Commission in the event of the loss of a quorum for the hearing as follows:

Sec. 33-8-4 Hearing Procedures

The Tribal Regulatory Commission shall serve as the hearing body for all eComplaints brought before them. Administrative hearings shall be held in accordance with the following procedures:

(a) Recusal by Commissioners

Any commissioner who has a conflict of interest under Title 28, the Ethics Title, with respect to a eComplaint before the Commission shall disclose the conflict to the other Commissioners and recuse himself or herself from participation. In the event that the Commission loses a quorum due to conflicts of interest, the Tribal Grievance Board Commission shall request

that the Tribal Council appoint one or more disinterested individuals to make a quorum shall provide as many of its members as necessary to serve as Commissioners to make a quorum. Additionally, if the entire Tribal Regulatory Commission recuses or has a conflict of interest, all members of the Tribal Grievance Board shall serve as the Special Tribal Regulatory Commission and shall follow the Hearing Procedures as set forth in this Title.

TERO staff shall present the matter to the Special Tribal Regulatory Commissioners within fifteen (15) days from the date of appointment. If a hearing is necessary pursuant to Section 33-8-3 above, the hearing shall be scheduled within thirty (30) days of establishing jurisdiction.

(b) Ex Parte Communication

Neither the ~~r~~Respondent, ~~e~~Complainant, nor any of the witnesses shall have any oral or written communication regarding the merits of the ~~appeal~~Complaint with either members of the Commission or members of Tribal Council without the knowledge, presence or consent of all other involved parties outside of the proceedings. Motions, briefs and other pleadings that are shared with all parties are not considered ex parte communications. Any ~~such~~ex parte communication believed to be in violation of this Section shall be reported in writing to the Legal Department who, in turn, will report the communication to the Tribal Council, so that necessary and appropriate measures may be taken, including, but not limited to, disqualification from participation in the proceedings.

(c) Correspondence and other Documents Sent to Commission

If a party wishes to submit any correspondence, motions, briefs, documents, etc., to the Commission for purposes of the hearing or in support of their position, that party must also provide an exact copy of the information to the other party.

(de) Subpoenas

The Commission shall be empowered to issue subpoenas to compel attendance of witnesses and to produce relevant documents. All subpoenas shall be signed by the Chair~~person~~ of the Commission and issued within a reasonable time prior to a hearing. Persons failing to obey such subpoenas shall be subject to contempt proceedings by the Commission and recommendation to the employer for disciplinary actions. The scope and relevancy of ~~the~~any subpoenas requested may be challenged before the Commission.

(e) Witnesses and Documents for Hearing

No later than five (5) business days prior to the hearing date, the parties shall identify to TERO staff any witnesses they intend to call to testify at the hearing. If a party wants a subpoena issued to a witness, the request must be submitted to the Commission when the witness list is submitted.

Additionally, no later than five (5) business days prior to the hearing date, the parties shall provide a copy of all documents they intend to use at the hearing to TERO staff, who will provide an exact copy to the other party. However, the documents will not be provided to the Commissioners prior to the hearing. Therefore, any party that introduces documentary evidence at the hearing should bring sufficient copies of the documents for the Commissioners and the other party.

Any documents not identified and provided to the TERO staff prior to the hearing may be excluded from the hearing at the discretion of the Commissioners.

(fd) Continuances

Any request for an extension of the hearing date must be submitted in writing to the Chairperson of the Commission ~~Chairman~~ no fewer than three (3) business days prior to the hearing. If the ~~e~~C~~om~~plainant and ~~r~~R~~es~~pondent mutually submit a request for a continuance because there is a possibility of settling the matter, the request for a continuance may be submitted at any time.

(ge) Conduct of Hearings

- (1) Hearings shall be closed to the general public. Other than the Commissioners, legal counsel, and TERO staff, Attendance shall be limited to the parties and their representatives.
- (2) Witnesses shall be excluded from the hearing until such time as they are called upon to testify. Witnesses will be sworn under oath by the Chairperson prior to testifying.
- (3) The ~~e~~C~~om~~plainant may give an opening statement.
- (4) The ~~r~~R~~es~~pondent may give an opening statement.
- (5) The ~~e~~C~~om~~plainant may call any witnesses and submit any documentary evidence in support of the ~~e~~C~~om~~plaint and the ~~r~~R~~es~~pondent shall be afforded the opportunity to cross-examine each witness.
- (6) The ~~r~~R~~es~~pondent may call any witnesses and submit any documentary evidence in support its position and the ~~e~~C~~om~~plainant shall be afforded the opportunity to cross-examine each witness.
- (7) The Commission need not strictly adhere to the rules of evidence but shall ensure that due process is afforded to all parties.
- (8) Any sworn testimony by a ~~e~~C~~om~~plainant, ~~r~~R~~es~~pondent or witness may be used for impeachment or as a party admission in any further civil or criminal proceedings in accordance with the rules of evidence otherwise applicable in such other proceedings.

- (9) The Commission may request additional testimony, information, and/or documents at any time before, during, or after the hearing. If information received after the hearing requires explanation or input from a party, a subsequent hearing may be scheduled.
- (10) Upon the conclusion of the testimony and receipt of evidence, the eComplainant shall be afforded the opportunity to give a closing statement in support of his or her position.
- (11) Upon the conclusion of the testimony and receipt of evidence, the rRespondent(s) may give a closing statement in support of its position.
- (12) The Commission shall convene in executive session to deliberate the matter and determine whether it has jurisdiction over the claim presented and if so, whether the complainant has proven a TERO violation has occurred and relief is required. All Commissioners, including the Chairman, will be entitled to vote in executive session. Only the Commission's final order shall be made public. The Commission shall serve a certified copy of its order on the parties within either thirty (30) days after the hearing or, after the all documents and evidence requested by the Commission have been received, whichever is later.

(hf) Legal Representation

Either party may have an attorney present as an advisor. However, the attorney may not make any presentations, examine or cross-examine witnesses, or address the Commission.

WHEREAS, the Tribal Council wishes to further amend Title 33 (Tribal Employment Rights), Chapter VIII, Complaints and Enforcement, Section 33-8-5 Disposition of Complaints and Remedies, Subsections (a), (b), (c), (d), and (f) to specify how Complaints are disposed of, amend the remedies available, and set procedures for appeals to Tribal Council as follows:

Sec. 33-8-5 Disposition of Complaints and Remedies

- (a) During executive session following the hearing, the Commission shall affirm jurisdiction and determine whether the Complainant has proven a TERO violation has occurred and relief is required. All Commissioners, including the Chairperson, will be entitled to vote in executive session. Only the Commission's final order shall be made public. The Commission shall serve a copy of its order to the parties, either electronically or via US Mail, within either thirty (30) days after the hearing or, after all documents and evidence requested by the Commission have been received, whichever is later.
- (b) All orders of the Commission in conformity with this Title shall be valid and in force. however, any party aggrieved by the final order of the

~~Commission may appeal the order to the Tribal Council. The aggrieved party shall have ten (10) days from the date the order is issued to file a notice of appeal of such order. The appealing party's notice of appeal shall be submitted in writing to the Tribal Council and shall attach a copy of the order or findings appealed and clearly state the reasons that the appealing party disagrees with the Commission's decision. The appealing party shall have the burden to prove by a preponderance of the evidence that the Commission was incorrect in its final decision or that any proposed penalty, sanction, award, or required action order by the Commission was not in accordance with this Title or otherwise incorrect, unwarranted, and/or unfounded.~~

- ~~(b) Any Tribal Council member who has a conflict of interest under the Ethics Title with respect to a complaint before the Council on appeal shall disclose the conflict to the other Commissioners and recuse himself or herself from participation. If due to conflicts of interest, less than three (3) Tribal Council members are able to participate, the Tribal Council may refer the matter to Tribal Court.~~
- (c) The Commission may grant such relief as justice requires, which may include the following:
 - (1) If practical, order the ~~r~~Respondent to hire the ~~e~~Complainant if the position has not been filled or to award the ~~e~~Complainant the contract if the contract has not been awarded;
 - ~~(2) Impose a remedial civil penalty on respondent in an amount not to exceed twenty five thousand dollars (\$25,000.00) for each violation.~~
 - (2) ~~(3)~~Order the ~~r~~Respondent to pay back and/or front pay up to an amount equal to the annual salary of the Employee or proposed annual salary of the position posted;
 - (3) ~~(4)~~If a position remains open and not filled, ~~O~~order the ~~r~~Respondent to hire, promote, or train the Indian preference eligible individual found to have been denied applicable preference;
 - (4) ~~(5)~~Order the ~~r~~Respondent to pay the costs of filing and pursuing the ~~e~~Complaint, or if no other relief is available, the costs of preparing and submitting a bid, to any aggrieved Certified Business deprived of a contract through violation of this Title; and/or
 - (5) ~~(6)~~Such other relief as the Commission deems necessary and appropriate and in accordance with applicable law, including, but not limited to, future commitments to the ~~e~~Complainant relative to hiring, reinstatement of position, training, mentoring, etc. or recommendations to the appropriate supervisor that the employee(s) found to be deliberately violating or not complying with this Title be subject to disciplinary action in accordance with the Employer's personnel policies and procedures.

(d) Any monetary damage awards to ~~e~~Complainants shall be limited to orders of back and/or front pay or costs of reimbursement.

~~(e) Reserved.~~

(ef) If an Employer or Contractor fails to comply with an order from the Commission within ten (10) days, the Complainant shall seek appropriate enforcement against Tribal Government or a Tribal Commercial Entity through the Tribal Council and against any other Employer or Contractor through the Poarch Band of Creek Indians Tribal Court. The Tribal Court shall assess attorney's fees and costs and any other sanctions in addition to those contained in the Commission's order that the Court deems just and reasonable.

(f) Appeal of Commission Orders

(1) Any party aggrieved by the final order of the Commission may appeal the order to the Tribal Council. The aggrieved party shall have ten (10) days from the date the order is issued to file a notice of appeal of such order. The appealing party's notice of appeal shall be submitted in writing to the Tribal Council, with a copy to the other party and a copy to the Commission. The appeal notice shall include a copy of the order or findings appealed and clearly state the reasons that the appealing party disagrees with the Commission's decision.

(2) The appealing party shall have the burden to prove by a preponderance of the evidence that the Commission was incorrect in its final decision or that any proposed penalty, sanction, award, or required action ordered by the Commission was not in accordance with this Title or otherwise incorrect, unwarranted, and/or unfounded.

(3) Once the appeal is received, Tribal Council may request written briefs from both parties regarding their respective positions. Tribal Council shall also decide within thirty (30) days of receipt of the written briefs whether it will allow oral arguments on the merits of the appeal. If oral arguments are desired, the hearing shall be scheduled within the next thirty (30) days. If no oral arguments are allowed, Tribal Council shall issue an order based on the written appeal and any briefs. Whether oral arguments are allowed or not, the final order from Tribal Council shall be issued within ninety (90) days from the date of receipt of the appeal.

(4) Any decision by the Tribal Council shall be final.

(5) Any Tribal Council Member who has a conflict of interest under Title 28, Ethics, with respect to a Complaint before the Tribal Council on appeal shall disclose the conflict to the other Council Members and recuse himself or herself from participation within thirty (30) days of notice of the conflict. If, due to conflicts of

interest, less than quorum of Tribal Council Members are able to participate, the Tribal Council may refer the matter to Tribal Court.

WHEREAS, in accordance with § 2-3-1(b) of Title 2 (Legislative), this ordinance was introduced by Tribal Council motion at the regularly scheduled official meeting on March 19, 2026.

NOW THEREFORE BE IT ORDAINED that the Tribal Council hereby amends Title 33 (Tribal Employment Rights) Chapter VIII, Section 33-8-1, Subsections (b) and (c), as follows:

Sec. 33-8-1 Protest Procedures

- (a) Tribal Government and all Tribal Commercial Entities shall have protest procedures to resolve disputes relating to their employment and procurements and shall in all instances disclose information regarding any such protest to the TERO Office.
- (b) A Complainant must exhaust all applicable administrative remedies with Tribal Government or a Tribal Commercial Entity before pursuing a Complaint against Tribal Government or the Tribal Commercial Entity. There are no administrative remedies required for Complaints filed under Chapter 4 of this Title.
- (c) Reviews of protests against Tribal Government or the Tribal Commercial Entity will be limited to the following:
 - (1) Violations of this TERO Title; and/or
 - (2) Violations of Tribal Government's or a Tribal Commercial Entity's protest procedures for failure to review a Complaint or protest that should fall under this TERO Title. Protests received by the TERO Office other than those specified above will be referred to Tribal Government or the Tribal Commercial Entity.

BE IT FURTHER ORDAINED that the Tribal Council hereby amends Title 33 (Tribal Employment Rights) Chapter VIII, Section 33-8-2, Subsections (b), (c), (d), (e), and (f), as follows:

Sec. 33-8-2 Complaint

- (a) Subject to Section 33-8-1, any Tribal Employee or Certified Business or applicant for the foregoing who believes that an Employer or Contractor has violated rights protected by this Title may file a written Complaint with the Commission.
- (b) The Complaint must be sworn to by the Complainant and shall be filed with the Regulatory Affairs Division:

- (1) Chapter III (Indian Preference): Within twenty (20) business days after the Complainant's receipt of notice of exhaustion of all administrative remedies.
- (2) Chapter IV (Fair Employment) or Chapter VII (Right to Work): Within six (6) months after the date of the most recent incident(s) for any alleged violation of those Chapters.

The Complaint shall be in writing, signed by the Complainant, and describe the Employer's or Contractor's action and how that action has violated Title 33.

- (c) Any person, group of persons, organization, or entity who believes that an action by the Regulatory Affairs Division Director or TERO staff is in excess of the authority granted by this Chapter or is otherwise in violation of Tribal law may file a Complaint with the Legal Department, who will act in place of TERO staff in providing support to the Tribal Council. The Complaint must be filed no later than ten (10) calendar days from the date of the action (or omission) upon which the Complaint is based. A hearing on such Complaint shall be heard pursuant to Section 33-8-4 below.
- (d) Complaints filed with the Commission pursuant to this Title shall be filed at the Regulatory Affairs Department. Upon receipt of a Complaint, the Regulatory Affairs Division Director, or his or her designee, shall forward notice of the Complaint to the Commission and a summary to the Tribal Council that shall include the names of the parties and the general nature of the Complaint.
- (e) At the next regularly scheduled meeting, no later than thirty (30) days after receipt of the Complaint, the Commission will review the Complaint to determine whether jurisdictional requirements have been met in accordance with Section 33-8-3 below. If jurisdiction is confirmed, the Commission shall prepare a notice of hearing issued to the Complainant and Respondent(s). The notice of hearing shall set a hearing date as soon as practical but no more than thirty (30) days after the Commission establishes jurisdiction.
- (f) If a hearing is scheduled, a copy of the Complaint shall be sent to the Respondent(s) and the Respondent(s) shall file a written response to the Complaint within seven (7) days from the date received, which shall be provided to the Commission and to the Complainant.
- (g) Complainants and Respondents may attempt to resolve or settle their disputes at any time. If the parties reach a settlement, the parties shall notify the Commission in writing and the Commission shall enter an order in accordance with the agreement of the parties to the settlement.

BE IT FURTHER ORDAINED that the Tribal Council hereby amends Title 33 (Tribal Employment Rights) Chapter VIII, Section 33-8-3, Subsections (a), (b), (c), and (d), as follows:

Sec. 33-8-3 Jurisdiction

- (a) The Commission shall review the Complaint at the next regularly scheduled meeting, no later than thirty (30) days after receipt of the Complaint, to determine whether the jurisdictional requirements have been met. Specifically, the Commission will determine whether:
 - (1) The Complainant has met the filing deadline; and
 - (2) The facts as stated allege that an Employer or Contractor has committed a violation of the TERO Title.
- (b) If the Commission, upon the advice of counsel, determines that the Complainant has not satisfied the jurisdictional requirements, the Commission may dismiss the Complaint without any further proceedings. If the Complaint is dismissed, the TERO staff will prepare a letter to the Complainant explaining the finding and advising of the appeal process.
- (c) If the Commission cannot determine whether the Complainant has met the jurisdictional requirements based solely on the information provided in the written Complaint, the Commission shall request additional documentation from the Complainant to show jurisdictional requirements are met. Complainant shall have seven (7) days to provide additional jurisdictional information.
- (d) If additional jurisdictional documents are provided by the Complainant, the Commission may find it has jurisdiction or may find no jurisdiction. If jurisdiction is found, the Commission shall proceed with scheduling a hearing on the merits of the Complaint within thirty (30) days of establishing jurisdiction. Any pre-hearing finding of jurisdiction shall be a rebuttable presumption and the Respondent may submit evidence and testimony at the hearing disputing jurisdiction.

BE IT FURTHER ORDAINED that the Tribal Council hereby amends Title 33 (Tribal Employment Rights) Chapter VIII, Section 33-8-4, Subsections (a), (b), (c), (d), (e), (f), and (g), as follows:

Sec. 33-8-4 Hearing Procedures

The Tribal Regulatory Commission shall serve as the hearing body for all Complaints brought before them. Administrative hearings shall be held in accordance with the following procedures:

(a) Recusal by Commissioners

Any commissioner who has a conflict of interest under Title 28, Ethics, with respect to a Complaint before the Commission shall disclose the conflict to the other Commissioners and recuse himself or herself from participation. In the event that the Commission loses a quorum due to conflicts of interest, the Tribal Grievance Board shall provide as many of its members as necessary to serve as Commissioners to make a quorum. Additionally, if the entire Tribal Regulatory Commission recuses or has a conflict of interest,

all members of the Tribal Grievance Board shall serve as the Special Tribal Regulatory Commission and shall follow the Hearing Procedures as set forth in this Title.

TERO staff shall present the matter to the Special Tribal Regulatory Commissioners within fifteen (15) days from the date of appointment. If a hearing is necessary pursuant to Section 33-8-3 above, the hearing shall be scheduled within thirty (30) days of establishing jurisdiction.

(b) Ex Parte Communication

Neither the Respondent, Complainant, nor any of the witnesses shall have any oral or written communication regarding the merits of the Complaint with either members of the Commission or members of Tribal Council without the knowledge, presence or consent of all other involved parties. Motions, briefs and other pleadings that are shared with all parties are not considered ex parte communications. Any ex parte communication believed to be in violation of this Section shall be reported in writing to the Legal Department who, in turn, will report the communication to the Tribal Council, so that necessary and appropriate measures may be taken, including, but not limited to, disqualification from participation in the proceedings.

(c) Correspondence and other Documents Sent to Commission

If a party wishes to submit any correspondence, motions, briefs, documents, etc., to the Commission for purposes of the hearing or in support of their position, that party must also provide an exact copy of the information to the other party.

(d) Subpoenas

The Commission shall be empowered to issue subpoenas to compel attendance of witnesses and to produce relevant documents. All subpoenas shall be signed by the Chairperson of the Commission and issued within a reasonable time prior to a hearing. Persons failing to obey such subpoenas shall be subject to contempt proceedings by the Commission and recommendation to the employer for disciplinary actions. The scope and relevancy of any subpoena requested may be challenged before the Commission.

(e) Witnesses and Documents for Hearing

No later than five (5) business days prior to the hearing date, the parties shall identify to TERO staff any witnesses they intend to call to testify at the hearing. If a party wants a subpoena issued to a witness, the request must be submitted to the Commission when the witness list is submitted.

Additionally, no later than five (5) business days prior to the hearing date, the parties shall provide a copy of all documents they intend to use at the hearing to TERO staff, who will provide an exact copy to the other party.

However, the documents will not be provided to the Commissioners prior to the hearing. Therefore, any party that introduces documentary evidence at the hearing should bring sufficient copies of the documents for the Commissioners and the other party.

Any documents not identified and provided to the TERO staff prior to the hearing may be excluded from the hearing at the discretion of the Commissioners.

(f) Continuances

Any request for an extension of the hearing date must be submitted in writing to the Chairperson of the Commission no fewer than three (3) business days prior to the hearing. If the Complainant and Respondent mutually submit a request for a continuance because there is a possibility of settling the matter, the request for a continuance may be submitted at any time.

(g) Conduct of Hearings

- (1) Hearings shall be closed to the general public. Other than the Commissioners, legal counsel, and TERO staff, attendance shall be limited to the parties and their representatives.
- (2) Witnesses shall be excluded from the hearing until such time as they are called upon to testify. Witnesses will be sworn under oath by the Chairperson prior to testifying.
- (3) The Complainant may give an opening statement.
- (4) The Respondent may give an opening statement.
- (5) The Complainant may call any witnesses and submit any documentary evidence in support of the Complaint and the Respondent shall be afforded the opportunity to cross-examine each witness.
- (6) The Respondent may call any witnesses and submit any documentary evidence in support its position and the Complainant shall be afforded the opportunity to cross-examine each witness.
- (7) The Commission need not strictly adhere to the rules of evidence but shall ensure that due process is afforded to all parties.
- (8) Any sworn testimony by a Complainant, Respondent or witness may be used for impeachment or as a party admission in any further civil or criminal proceedings in accordance with the rules of evidence otherwise applicable in such other proceedings.
- (9) The Commission may request additional testimony, information, and/or documents at any time before, during, or after the hearing. If

information received after the hearing requires explanation or input from a party, a subsequent hearing may be scheduled.

- (10) Upon the conclusion of the testimony and receipt of evidence, the Complainant shall be afforded the opportunity to give a closing statement in support of his or her position.
- (11) Upon the conclusion of the testimony and receipt of evidence, the Respondent(s) may give a closing statement in support of its position.
- (12) The Commission shall convene in executive session to deliberate the matter.

(h) Legal Representation

Either party may have an attorney present as an advisor. However, the attorney may not make any presentations, examine or cross-examine witnesses, or address the Commission.

BE IT FURTHER ORDAINED that the Tribal Council hereby amends Title 33 (Tribal Employment Rights) Chapter VIII, Section 33-8-5, Subsections (a), (b), (c), (d), and (f), as follows:

Sec. 33-8-5 Disposition of Complaints and Remedies


- (a) During executive session following the hearing, the Commission shall affirm jurisdiction and determine whether the Complainant has proven a TERO violation has occurred and relief is required. All Commissioners, including the Chairperson, will be entitled to vote in executive session. Only the Commission's final order shall be made public. The Commission shall serve a copy of its order to the parties, either electronically or via US Mail, within either thirty (30) days after the hearing or, after all documents and evidence requested by the Commission have been received, whichever is later.
- (b) All orders of the Commission in conformity with this Title shall be valid and in force.
- (c) The Commission may grant such relief as justice requires, which may include the following:
 - (1) If practical, order the Respondent to hire the Complainant if the position has not been filled or to award the Complainant the contract if the contract has not been awarded;
 - (2) Order the Respondent to pay back and/or front pay up to an amount equal to the annual salary of the Employee or proposed annual salary of the position posted;
 - (3) If a position remains open and not filled, order the Respondent to hire, promote, or train the Indian preference eligible individual found to have been denied applicable preference;

- (4) Order the Respondent to pay the costs of filing and pursuing the Complaint, or if no other relief is available, the costs of preparing and submitting a bid, to any aggrieved Certified Business deprived of a contract through violation of this Title; and/or
 - (5) Such other relief as the Commission deems necessary and appropriate and in accordance with applicable law, including, but not limited to, future commitments to the Complainant relative to hiring, reinstatement of position, training, mentoring, etc., or recommendations to the appropriate supervisor that the employee(s) found to be deliberately violating or not complying with this Title be subject to disciplinary action in accordance with the Employer's personnel policies and procedures.
- (d) Any monetary damage awards to Complainants shall be limited to orders of back and/or front pay or costs of reimbursement.
 - (e) If an Employer or Contractor fails to comply with an order from the Commission within ten (10) days, the Complainant shall seek appropriate enforcement against Tribal Government or a Tribal Commercial Entity through the Tribal Council and against any other Employer or Contractor through the Poarch Band of Creek Indians Tribal Court. The Tribal Court shall assess attorney's fees and costs and any other sanctions in addition to those contained in the Commission's order that the Court deems just and reasonable.
 - (f) Appeal of Commission Orders
 - (1) Any party aggrieved by the final order of the Commission may appeal the order to the Tribal Council. The aggrieved party shall have ten (10) days from the date the order is issued to file a notice of appeal of such order. The appealing party's notice of appeal shall be submitted in writing to the Tribal Council, with a copy to the other party and a copy to the Commission. The appeal notice shall include a copy of the order or findings appealed and clearly state the reasons that the appealing party disagrees with the Commission's decision.
 - (2) The appealing party shall have the burden to prove by a preponderance of the evidence that the Commission was incorrect in its final decision or that any proposed penalty, sanction, award, or required action ordered by the Commission was not in accordance with this Title or otherwise incorrect, unwarranted, and/or unfounded.

- (3) Once the appeal is received, Tribal Council may request written briefs from both parties regarding their respective positions. Tribal Council shall also decide within thirty (30) days of receipt of the written briefs whether it will allow oral arguments on the merits of the appeal. If oral arguments are desired, the hearing shall be scheduled within the next thirty (30) days. If no oral arguments are allowed, Tribal Council shall issue an order based on the written appeal and any briefs. Whether oral arguments are allowed or not, the final order from Tribal Council shall be issued within ninety (90) days from the date of receipt of the appeal.
- (4) Any decision by the Tribal Council shall be final.
- (5) Any Tribal Council Member who has a conflict of interest under Title 28, Ethics, with respect to a Complaint before the Tribal Council on appeal shall disclose the conflict to the other Council Members and recuse himself or herself from participation within thirty (30) days of notice of the conflict. If, due to conflicts of interest, less than quorum of Tribal Council Members are able to participate, the Tribal Council may refer the matter to Tribal Court.


APPROVAL

I, the Chair of the Poarch Band of Creek Indians, hereby affix my signature to this ordinance authorizing it to become official this 2nd day of April, 2026.


Stephanie A. Bryan, Tribal Chair
Poarch Band of Creek Indians

CERTIFICATION

I, the Secretary of the Poarch Band of Creek Indians, certify that the foregoing is a true extract from the minutes of the Tribal Council meeting of the Poarch Band of Creek Indians, compromised of nine members with 8 in attendance on the 2nd day of April, 2026, and that the above is in conformity with the provisions therein adopted by a vote of 8 in favor, 0 against, and 0 abstentions.


Charlotte M. Meckel, Secretary
Poarch Band of Creek Indians