

TITLE XXX
LABOR ORGANIZATIONS TITLE

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§30-1-1 Definitions

For the purposes of this Title:

- (1) “Business Agent” means any person who acts or attempts to act for or on behalf of any labor organization in:
 - (a) the issuance of membership or authorization documents, work permits or any other evidence of rights granted or claimed in or by, a labor organization;
 - (b) negotiating with, soliciting or receiving from, any employer any benefit, right or privilege for employees;
 - (c) the representation of persons individually or collectively in negotiating, fixing, maintaining, changing or seeking to arrange terms or conditions of employment, regardless of whether the persons stand in the proximate relations of employer and employee; or
 - (d) soliciting persons for membership in a labor organization by which the business agent is employed.
- (2) “Employer” means any person, firm, association, corporation or other business entity lawfully operating as such on Tribal land, including the Mississippi Band of Choctaw Indians and its enterprises.
- (3) “Labor Organization” means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate, which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work and which operates on or desires to operate on the Mississippi Band of Choctaw Indians’ land.
- (4) The term “Person” includes one or more individuals, labor organizations, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy or receivers.
- (5) “Tribal” or “the Tribe” means the Mississippi Band of Choctaw Indians, a federally-recognized Indian tribe.
- (6) “Choctaw lands” or “Tribal lands” means the Mississippi Choctaw Indian Reservation and any other lands subject to the jurisdiction of the Mississippi Band of Choctaw Indians as Indian country per 18 U.S.C. §1151.
- (7) “Chief” means the Chief of the Mississippi Band of Choctaw Indians.
- (8) “Tribal Council” means the governing body of the Mississippi Band of Choctaw Indians.
- (9) “Tribal Court” means the Mississippi Band of Choctaw Indians’ Tribal Court.
- (10) “Tribal Offense” means any action that violates Title III of the Choctaw Tribal Code, as previously enacted.

§30-1-2 Tribal Council Findings

The Tribal Council finds that:

- (1) the Tribe possesses the inherent power to exclude non-Indians from Choctaw lands, which includes the lesser power to place conditions on entry, on continued presence or on conduct, on Choctaw lands as recognized by the United States Supreme Court in *Merrion v. Jicarilla Apache Tribe*, 455 U.S. 130 (1982);
- (2) the Tribal Council through enactment of Title XX has established rules governing the exclusion of persons from Choctaw Indian Country;
- (3) various labor organizations and their business agents have entered Choctaw lands without the authorization of the Chief;
- (4) the unauthorized and unregulated entry of various entities and persons on Choctaw lands threatens the political integrity, economic security and the health, safety and welfare of the Tribe and its members;
- (5) the individual freedom of choice in the pursuit of employment on Choctaw lands should be encouraged as a matter of the public policy and law of the Tribe; and
- (6) the right to work should not be subject to undue restraint, coercion, or infringement based upon membership in, affiliation with or financial support of a labor organization, or upon the refusal to join, affiliate with or financially or otherwise support a labor organization.

§30-1-3 Jurisdiction

All persons who enter Choctaw lands shall be deemed to have given implied consent to the jurisdiction of the Tribe and shall be subject to the provisions of this Title.

§30-1-4 Registration of Labor Organizations

- (1) Every labor organization operating or desiring to operate on Choctaw lands shall file a report with the Chief on or before December 31 of each year. The report, which shall be filed by the president or the business agent of the labor organization, shall contain the following information:
 - (a) the name and address of the labor organization;
 - (b) the names, addresses, telephone and fax numbers of the president or other chief executive, secretary, treasurer and business agent(s) of the labor organization;
 - (c) the name and address of the national or international organization, if any, with which it is affiliated;
 - (d) a copy of the collective bargaining agreement between the labor organization and an employer, if any;

- (e) a copy of its constitution and by-laws;
 - (f) a copy of all labor organization documents showing satisfaction with §30-1-5(5) of this Title;
 - (g) a statement of whether the labor organization asserts a right to strike against the Tribe on Choctaw lands;
 - (h) a copy of the Indian trader's permit issued per 25 U.S.C. §§261-264 for each of the labor organization's employees, agents or contractors that are or will be, present on Choctaw lands as required by §30-1-5 of this Title; and
 - (i) any other documents or other materials reasonably related to the application as may be required by the Tribe at the time it considers the application.
- (2) At the time of filing the report, the labor organization shall pay an annual fee of twenty-five dollars (\$25.00).
 - (3) The president or the business agent of the labor organization shall file with the Chief a notice of any changes to the information required by §30-1-4(1) within ten (10) days after the changes are made, and provide any additional information requested by the Chief.

§30-1-5 Business Agents

- (1) No person shall be granted a license to act as a business agent on Choctaw lands if that person:
 - (a) has been convicted of a felony and has not had his civil rights restored,
 - (b) is not a person of good moral character; or
 - (c) has not provided proof of possession of a valid Indian trader's permit issued per 25 U.S.C. §§261-264 and 25 C.F.R. Part 140, authorizing the applicant to sell or attempt to sell the services of the labor organization which the applicant represents to Tribal members on Tribal lands.
- (2) Any person desiring to act as a business agent on Choctaw lands shall first obtain a license from the Tribe by:
 - (a) filing an application under oath with the Chief,
 - (b) paying a license fee of twenty-five dollars (\$25.00);
 - (c) submitting a full set of fingerprints of the applicant, which shall be taken by the Choctaw Police Department or other law enforcement agency authorized by the Tribal Council to do so; and
 - (d) submitting a statement signed by the president and the secretary of the labor organization showing his authority to act as a business agent for the labor organization.

- (3) The Chief, in his discretion, may conduct or cause to be conducted an independent background investigation of the applicant to determine the applicant's eligibility for a license.
- (4) Upon the applicant's satisfactory compliance with §30-1-4(2), and upon the Tribe's completion of its review of the applicant's submissions and where there is no reason for the Tribe to deny the license, the Chief shall then issue the license. If at anytime after the issuance of the license, the Chief receives reliable information based on the background investigation or other source that the licensee is ineligible to hold a license hereunder, then the Chief may suspend or revoke the license and cause written notice of such action to be mailed or served on the licensee, in which case the licensee may within thirty (30) days from the date of suspension or revocation to appeal the suspension or revocation to the Tribal Court. The license shall run for the calendar year for which it is issued unless sooner surrendered, suspended, or revoked.
- (6) All licenses shall expire at midnight on December 31, of each year, but may be renewed by the Chief on a form prescribed by the Chief for that purpose and upon the payment of an annual renewal fee of twenty-five dollars (\$25.00); however, if any license has been surrendered, suspended or revoked during the year, then the applicant must go through the requirements set forth in §30-1-4(1) as a new applicant.
- (7) Grounds for denial, suspension or revocation of licenses shall include, but not be limited to making statements that are found by the Tribe to be false and violation of any part of this title or other applicable law.

§30-1-6 Freedom of Choice and Recognition of Indian Preference Rights Guaranteed

It is hereby declared to be the policy of the Tribe that the right of a person or persons to work and the right of Indian preference shall not be denied or abridged on account of membership or non-membership in any labor union or labor organization.

- (1) Any agreement or combination between any employer operating on Choctaw lands and any labor union or labor organization whereby any person not a member of such union or organization shall be denied the right to work for an employer, or whereby such membership is made a condition of employment or continuation of employment by such employer, or whereby any such union or organization acquires an employment monopoly in any enterprise, is hereby declared to be an illegal combination or conspiracy.
- (2) No person shall be required by an employer operating on Choctaw lands to become or remain a member of any labor union or labor organization as a condition of employment or continuation of employment by such employer.
- (3) No person shall be required by an employer operating on Choctaw lands to abstain or refrain from membership in any labor union or labor organization as a condition of employment or continuation of employment.
- (4) No employer operating on Choctaw lands shall require any person, as a condition of employment or continuation of employment, to pay any dues, fees or other charges of any kind to any labor union or labor organization.

- (5) No employer shall be required to assume the burden of instituting a payroll deduction plan, procedure or system for any “voluntary” payment by an employee to a labor union or a labor organization.
- (6) No person shall organize a labor union or labor organization on Choctaw lands which include Tribal enterprise employees or be a member thereof, where such labor union or organization has for its purpose the negotiation or setting of terms and conditions of employment of employees employed by Tribal enterprises on Choctaw lands unless such labor union or organization has a charter, by-laws, rules, written policy and practice which specifically acknowledges the obligation of the employer and labor organization to give Indian preference in employment, promotion, seniority, lay-offs (Tribal Members will not be laid off first) or retention to Tribal members, and unless such organization activity or membership will not in any way affect the right of Tribal members and Tribal enterprises to follow Tribal law, ordinances, personnel policies or the Tribe’s customs or traditions regarding Indian preference in employment, promotion, seniority, lay-offs or retention.

§30-1-7 No Strike on Choctaw Lands Against Tribal Enterprises

A person may not accept or hold an employment position in the governmental division or the enterprise division of the Tribe under Ordinance 56 if he:

- (1) participates in a strike, or asserts the right to strike, against the Tribe on Choctaw lands; or
- (2) is a member of an organization which asserts the right to strike against the Tribe on Choctaw lands. False or misleading statements by the employee in this regard may constitute grounds for disciplinary action.

§30-1-8 Violations of Title

- (1) It shall be a violation of this title for any person on Choctaw lands:
 - (a) to act as a business agent without having obtained a valid license;
 - (b) to solicit membership or to act as a business agent of any labor organization without authority of the labor organization to do so;
 - (c) to make any false statement in an application for license;
 - (d) to unlawfully seize or occupy any property during the existence of a labor dispute;
 - (e) to coerce or intimidate any employee in the enjoyment of his legal rights; to coerce or intimidate any elected or appointed tribal official; or to intimidate the family or injure the person or property of any employee or Tribal member; and
 - (f) to engage in distribution, solicitation activity or picketing in any manner which constitutes a Tribal offense; picketing in a manner to discourage or disrupt ingress to and egress from any premises and picketing or gathering without a permit under the Choctaw Tribal Code §3-12-1.

§30-1-9 Civil Remedies

- (1) Any person who violates any provision of this Ordinance or who causes, enables or facilitates any such violation, shall be subject to a fine not exceeding one thousand dollars (\$1,000.00) for each such violation, exclusion from Choctaw lands pursuant to Title XX of the Choctaw Tribal Code, or both.
- (2) Any person, including the Tribe itself or a tribal enterprise, that is injured as a result of any violation or threatened violation of the provisions of this Title shall be entitled to injunctive relief from the Tribal Court against any person threatening any violation and may, in addition thereto, recover any and all damages, including costs and reasonable attorney fees, resulting from the violation or threatened violation. The remedy shall be independent of and in addition to any other penalties and remedies prescribed by applicable law.

§30-1-10 Severability

The provisions of this Title are hereby declared to be severable and if any provision is declared void, invalid or unenforceable in whole or in part, then that declaration shall not effect the remaining provisions of this Title. However, nothing in this Title is intended nor shall be construed to violate applicable Federal law as interpreted by the Supreme Court of the United States.

§30-1-11 Sovereign Immunity

Nothing in this Title shall be construed as waiving the sovereign immunity of the Tribe or its agents, employees or officials.