



TRIBAL EMPLOYMENT RIGHTS OFFICE (TERO)

5811 Jack Springs Road, Building 200 (1ST Floor)
Atmore, AL. 36502
Phone: 251-368-0606



FILING A TERO COMPLAINT

Tribal Government and all Tribal Commercial Entities shall have protest procedures to resolve disputes relating to employment and procurement. A complainant **MUST** exhaust all **ADMINISTRATIVE REMEDIES** with Tribal Government or a Tribal Commercial Entity before pursuing a complaint with the TERO Office. Any Applicant, Tribal Employee, or Certified Business who believes that an Employer or Contractor has violated his/her rights protected under Tribal Employment Rights (Title 33) of the Tribal Code may file a written complaint with the TERO Office.

All administrative remedies must be exhausted. **This means exhausting all options through the proper chain of command according to your entities' policies and providing document(s) that your remedies have been exhausted.**

A complaint must be sworn/notarized and filed within the appropriate deadline outlined in the TERO Code **AFTER** the complainant's receipt of notice of exhaustion of all administrative remedies. **If you have any questions regarding the filing deadline for different types of TERO violations, we encourage you to contact the TERO Office immediately.**

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 the Tribal Employment Rights (Title 33) of the Tribal Code. **When filling out a TERO Complaint Form, make sure the form is filled out entirely leaving no blanks. If you have any questions we encourage you to contact the TERO Office. In addition, when filling out a TERO Complaint Form, be sure to include as much detail about your specific situation as possible. You may attach extra documentation to your TERO Complaint Form.**

*****ALWAYS refer to the TERO Code for all sections that are enforceable!*****

Remedy that you are seeking:

Individuals with Pertinent Information (including contact information):

1. _____
2. _____
3. _____
4. _____
5. _____

What Section(s) of the TERO Ordinance do you believe has been violated (Cite/Quote the Section(s) of the TERO Ordinance below). See attached enforceable sections of the TERO code for assistance.

Have you exhausted all administrative remedies listed in your entity's policies and procedures?

_____ Yes _____ No (If yes, attach documentation of proof)

AUTHORIZATION OF RELEASE: I hereby authorize the release of my employment/contracting records from _____ to the TERO Office.

I believe the statements set forth in this complaint to be true and if found that I knowingly provided false information, I am subject to legal recourse. I understand by signing this compliant form, I authorize a TERO Representative to administer a full investigation regarding this complaint. I further understand that information disclosed or revealed through investigation will be held confidential to the extent that it does not pose conflict with any legal requirements, policies or provisions of the TERO Ordinance or Other Applicable Law.

Complainant

Sworn to and subscribed before me this _____ day of _____, 20_____.

NOTARY PUBLIC

My commission expires: _____

FOR TERO USE ONLY:
Date & Time Received: _____
Received by: _____
Complaint Number: _____

ENFORCEABLE SECTIONS OF THE TERO CODE

*****Please note** that some of the sections below have been summarized. For the complete section(s) of the Code you may request a copy of the TERO Code from the TERO Office located at 5811 Jack Springs Road, Building 200 (1st Floor), via email at tero@pci-nsn.gov, or access Municode online at https://library.municode.com/tribes_and_tribal_nations/poarch_band_of_creek_indians/codes/code_of_ordinances?nodeId=TIT33TREMRI for the most up to date version of the TERO Code.***

***** ALWAYS refer to the TERO Code for all sections that are enforceable!*****

CHAPTER 3 – INDIAN PREFERENCE

*Section 33-3-3 **ONLY** applies to **Indian preference candidates** employed or seeking employment with the Poarch Band of Creek Indians. Indian preference candidates include, **Tribal members, First Generation Descendants of Tribal members, Spouses of Tribal members, and Other Indians of federally recognized Tribes***

Sec. 33-3-3 Employment by the Tribe

Except as provided in the event that more than one (1) applicant meets the qualifications, as stated in a job description, for a position of employment with a Tribal Employer, preference shall be given in the following order:

- Tribal Member
- First Generation Descendant of a Tribal Member
- Spouse of Tribal Member
- Indian
- Non-Indian

In the event that a position of employment is funded in whole or in part by any federal grant and/or contract or other public funding, preference shall be given in the following order:

- Indian
- Non-Indian

For all performance-based employment actions, including promotions, transfers, shifts, etc., preference shall be given only if two (2) or more Employees are equally qualified for, or deserving of, in the following order:

- Tribal Member
- First Generation Descendant of a Tribal Member
- Spouse of Tribal Member
- Indian

- Non-Indian

Sec. 33-3-4 Employment by Other Employers

Except as provided in subsection (b) below, in the event that more than one (1) applicant meets the qualifications, as published in a job description, for a position of employment with an Employer, an Employer subject to the Poarch Band of Creek Indians's jurisdiction shall give preference according to section 33-3-3 (a) (2).

***** This section (33-3-4) shall not apply to Employers of fewer than ten (10) Employees.**

Sec. 33-3-5 Employment by Contractors

Contractors shall extend a preference to qualified individuals in accordance with section 33-3-3(a)(2) with respect to hiring each and every employment position that is being fully dedicated to the fulfillment of the contract with, or services being provided to, the Poarch Band of Creek Indians and to qualified Certified Businesses in accordance with section 33-3-6 with respect to securing each and every contract or subcontract for purposes of assembling or fulfilling a bid or proposal for goods and/or services to be provided to the Poarch Band of Creek Indians.

Sec. 33-3-6 Procurement by the Tribe

All procurements by the Poarch Band of Creek Indians are governed by the Procurement Title and any procurement policies and procedures developed in accordance therewith. The Indian preference provisions of this Title apply to any required competitive solicitations.

Sec. 33-3-7 Responsibility for Evaluation of Qualifications

No Employer may utilize any employment criterion that is not legitimately related to the performance of a position or the project. If an applicant who was disqualified believes that the disqualification was the result of an improper effort by the entity to circumvent preference responsibilities, the applicant may file a complaint with the TERO Office under Chapter VIII.

CHAPTER 4 – FAIR EMPLOYMENT

Sections 33-4-3 thru 33-4-10 apply to ALL individuals (Indian and non-Indian) employed or seeking employment with the Poarch Band of Creek Indians

Sec. 33-4-3 Prohibited Bases of Discrimination

Prohibits discrimination against an individual on the basis of:

- Age
- Race
- Creed

- Color
- Disability,
- Marital status
- Sex
- National origin
- Ancestry
- Arrest record
- Conviction record
- Membership in the National Guard, state defense force o
- Any reserve component of the military forces of the United States

Sec. 33-4-4 Retaliatory Actions Prohibited

Refuses to hire, employ, admit or license any individual, to bar or terminate from employment or labor organization membership any individual, or to discriminate against promotion, compensation or in terms, conditions or privileges of employment.

Prohibits printing or circulation of any statement, advertisement or publication, or to use any form of application for employment or to make any inquiry in connection with prospective employment which implies or expresses any limitation, specification, or discrimination with respect to an individual or any intent to make such limitation, specification or discrimination.

Prohibits discharge, demote, suspend, threaten, harass, or otherwise discriminate against because the individual files a complaint or attempts to enforce his or her rights under this Title or under any other Tribal or applicable federal law.

Prohibits retaliation if individual testifies or assists in any action or proceeding under this Title or any other Tribal or applicable federal or state law.

Prohibits retaliation if individual reports in good faith a violation of Tribal or applicable federal or state law.

Sec. 33-4-5 Age; Exceptions and Special Cases

Prohibits discrimination on the basis of age applies only to discrimination against an individual who is age forty (40) or over.

Sec. 33-4-6 Arrest or Conviction Record; Exceptions and Special Cases

Sec. 33-4-7 Creed; Exceptions and Special Cases

Prohibits refusing to reasonably accommodate an employee's or prospective employee's religious observance or practice unless the employer can demonstrate that the accommodation would pose an undue hardship on the employer's program, enterprise, or business.

Sec. 33-4-8 Disability; Exceptions and Special Cases

Prohibits contributing a lesser amount of fringe benefits, including life or disability insurance coverage, of any employee because of the employee's disability.

Prohibits refusing to reasonably accommodate an employee's or prospective employee's disability unless the employer can demonstrate that the accommodation would pose a hardship on the employer's program, enterprise or business.

Sec. 33-4-9 Marital Status; Exceptions and Special Cases

Sec. 33-4-10 Sex, Sexual Orientation; Exceptions and Special Cases

Prohibits discriminating against any individual in promotion, compensation paid for equal or substantially similar work, or in terms, conditions or privileges of employment or licensing on the basis of sex where sex is not a bona fide occupational qualification.

Prohibits sexual harassment or implicitly or explicitly making or permitting acquiescence in submission to or rejection of sexual harassment the basis or any part of the basis for any employment decision affecting an employee, other than an employment decision that is disciplinary action against an employee for engaging in sexual harassment or permitting sexual harassment to have the purpose or effect of substantially interfering with an employee's work performance or of creating an intimidating, hostile or offensive work environment.

Prohibits engaging in harassment that consists of unwelcome verbal or physical conduct directed at another individual because of that individual's gender.

Prohibits discrimination against any woman on the basis of pregnancy, childbirth, maternity leave or related medical conditions.

CHAPTER 7 – RIGHT TO WORK

Sections 33-7-2 thru 33-7-5 apply to ALL individuals (Indian and non-Indian) employed or seeking employment with the Poarch Band of Creek Indians

Sec. 33-7-2 Agreement or Combination to Deny Right to Work on Account of Membership or Non-Membership in Labor Union, etc., Prohibited

Prohibits the denial to the right to work whereby persons not members of such union or organization 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.

Sec. 33-7-3 Employers not to Require Union Membership as Condition of Employment, etc.

No person shall be required by an Employer to become or remain a member of any labor union or labor organization as a condition of employment or continuation of employment.

Sec. 33-7-4 Employers not to Require Abstention from Union Membership as Condition of Employment, etc.

No person shall be required by an Employer to abstain or refrain from membership in any labor union or labor organization as a condition of employment or continuation of employment.

Sec. 33-7-5 Employer not to Require Payment of Union Dues, etc., as Condition of Employment, etc.

No Employer 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.