

# **KICKAPOO TRIBE OF OKLAHOMA**

## **LIBEL AND SLANDER ORDINANCE**

### **TABLE OF CONTENT**

<b>SECTION</b>	<b>DEFINITION</b>
Section 100.	Enactment Clause
Section 101.	Libel Shall Consist Of:
Section 102.	Slander Shall Consist Of:
Section 103.	Effort To Resolve Charge Of Libel and/or Slander
Section 104.	Pleading --- Proof --- Defenses
Section 105.	Privileged Communication Defined – As To Exemption From Libel or Slander
Section 106.	Limited Privileged Communication

# **KICKAPOO TRIBE OF OKLAHOMA**

## **LIBEL AND SLANDER ORDINANCE**

**HISTORY:** [Approved Sept. 5, 1995, Resolution K-1995-69]

### **SECTION 100. ENACTMENT CLAUSE**

Be it enacted by the Council of the Kickapoo Tribe of Oklahoma, the following Libel and Slander Ordinance.

### **SECTION 101. LIBEL SHALL CONSIST OF:**

Libel is a false or malicious unprivileged publication by writing, printing, picture, sign, or effigy or other fixed representation to the eye, which exposes any person to public hatred, contempt, ridicule or obloquy, or which tends to deprive that person of public confidence, or to injure that person in that person's occupation, or any malicious publication as aforesaid, designed to blacken or vilify the memory of one who is dead, and tending to scandalize that person's surviving relatives or friends.

### **SECTION 102. SLANDER SHALL CONSIST OF:**

Slander shall be a false and unprivileged publication or statement, other than libel, which orally committed stated:

1. Charges any person with crime, or with having been indicted, convicted or punished for crime.
2. Imputes to the person the present existence of an infectious, contagious or loathsome disease.
3. Tends directly to injure that person in respect to their office, profession, trade or business, either by imputing to the person general disqualification in those respects which the office or other occupation peculiarly requires, or by imputing something with reference to that person's office, profession, trade or business that has a natural tendency to less its profit or prevent the person from fulfilling their official duties.
4. Seeks to injure or infer a disrespect or creates ill feeling to the person within the Tribal community.
5. Which, by natural consequences, causes actual damage.

**SECTION 103. EFFORT TO RESOLVE CHARGE OF LIBEL AND/OR SLANDER**

a. In every charge that alleges the Libel or Slander, or a variety of libel and slander charges, the Trial Judge shall first appoint a Magistrate, or such person who may have knowledge of Kickapoo customary law to resolve the complaint or charge between the party alleging injury and the party or parties who have been alleged to have committed the act of libel and/or slander.

b. In the event that the matter cannot be resolved by the Magistrate, the Magistrate shall communicate in writing such finding to the Trial Judge and the matter shall proceed before the Trial Court. If the Plaintiff is not satisfied with the recommendation of the Magistrate the matter shall proceed before the Trial Court.

**SECTION 104. PLEADING – PROOF – DEFENSES**

In all civil actions to recover damages for libel or slander, it shall be sufficient to state generally what the defamatory matter was, and that it was published or spoken of the plaintiff, and to allege any general or special damage caused thereby. As a defense thereto the defendant may deny and offer evidence to disprove the charges made, or he may prove that the matter charged as defamatory was true and, in addition thereto, that it was published or spoken under such circumstances as to render it a privileged communication. In libel, truth shall not be a defense.

a. Good faith in publishing libel.

In an action for damages for the publication of a libel in a newspaper, pamphlet, or flyer, if the evidence shows that the article was published in good faith and that its falsity was due to a honest mistake of fact, and that question of “honest mistake”, such a finding shall be a question of fact to be determined by a jury or Judge in the event of no jury.

**SECTION 105. PRIVILEGED COMMUNICATION DEFINED – AS TO EXEMPTION FROM LIBEL OR SLANDER**

1. A privileged publication or communication is one made:
  - i. In any Kickapoo Council meeting, Business Committee meeting, or made during any other Tribal authorized board or committee during a duly called meeting;
  - ii. In any Tribal Judicial proceeding;
  - iii. In the proper discharge of an official duty;

- iv. By a fair and true report of a Tribal Committee or board, including any and all criticisms, or which may infer a crime to any officer or person which may by subject matter be a reasonable included in the report;

2. No publication which under this section which is privileged shall be punishable as libel.

**SECTION 106. LIMITED PRIVILEGED COMMUNICATION**

a. Defamatory statements by candidates for public office shall be granted a limited privilege of publication or communication:

- i. As not to infer, hinder, or chill the political debate during a campaign as such comments or publications are related to the campaign; or
- ii. Involve such statement that as such is reasonable during a political campaign.

b. Determinations of a limited privilege shall be a question of fact for the jury, and if no jury, than the Trial Judge. Factors to be considered shall be:

- i. The office that candidate sought as related to the statement or publication;
- ii. The defamatory nature of the statement;
- iii. The time and place of the statement or distribution of the materials that included the statement.

c. The results of the election shall not be a determining factor in the determining the extent of injury.