

Cherokee Nation Code Annotated

Title 1: Administrative Procedure

Chapter 4: Adjudication

§ 402. Presiding officers

Cite as: 1 CNCA § 402

A. In a disputed case, a presiding officer shall preside over the conduct of the hearing and shall regulate the course of the proceedings in a manner that will promote their orderly and prompt resolution.

B. The agency head, one or more members of the agency head, one or more persons designated by the agency head, in the discretion of the agency head, may serve as the presiding officer.

C. An individual who has served as investigator, prosecutor, or advocate at any stage in a disputed case, including investigation, may not serve as a presiding officer or assist or advise any presiding officer in the same proceeding.

D. An individual who is subject to the authority, direction, or discretion of an individual who has served as investigator, prosecutor, or advocate at any stage in a disputed case, including investigation, may not serve as presiding officer or assist or advise a presiding officer in the same proceeding.

E. A presiding officer is subject to disqualification for bias, prejudice, financial interest, or any other cause for which a judge is or may be disqualified.

F. A party may request the disqualification of a presiding officer by filing an affidavit, promptly after discovery of grounds, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded, or the applicable rule or canon of practice or ethics that requires disqualification.

G. A presiding officer whose disqualification is requested shall determine whether to grant the position, and state facts and reasons for the determination in writing.

H. If a substitute presiding officer is required, the substitute must be appointed by:

1. the Principal Chief, if the original presiding officer is the agency head; or
2. the agency, if the original presiding officer was designated by the agency.

I. Any party to agency proceedings or any party to judicial review or civil enforcement proceedings shall have a matter decided by administrative judges en banc.

Historical Data

LA 13-07, eff. March 19, 2007. Amended LA 01-12, eff. Jan. 18, 2012.