

Cherokee Nation Code Annotated

Title 1: Administrative Procedure

Chapter 4: Adjudication

§ 407. Emergency adjudication

Cite as: 1 CNCA § 407

- A. Unless prohibited by law other than this act, an agency may conduct an emergency adjudication in a disputed case under the procedure provided in this section.
- B. An agency may issue an order under this section only to deal with an immediate danger to the public health, safety, or welfare. The agency may take only action that is necessary to deal with the immediate danger to the public health, safety or welfare. The emergency action must be limited to temporary, interim relief.
- C. Before issuing an order under this section, the agency, if practicable, shall give notice and an opportunity to be heard to the person to which the agency action is directed. The notice and hearing may be oral or written and may be communicated by telephone, facsimile, or other electronic means. The hearing may be conducted in the same manner as an informal hearing under this chapter.
- D. Any order issued under this section must contain an explanation that briefly explains the factual and legal basis for the emergency decision.
- E. An agency shall give notice of an order to the extent practicable to the person to which the agency action is directed. The order is effective when issued.
- F. After issuing an order pursuant to this section, an agency shall proceed as soon as feasible to conduct an adjudication following disputed case procedure under 1 CNCA § 403, or, if appropriate under this article, informal adjudication under 1 CNCA §§ 405 and 406, in order to resolve the issues underlying the temporary, interim relief.
- G. The agency shall take reasonable and appropriate steps to document the emergency and the agency response, including the use of field notes, audio, video, or photography.
- H. The agency record in an emergency adjudication consists of any testimony or records concerning the matter that were considered or prepared by the agency. The agency shall maintain those records as its official record.
- I. On issuance of an order under this section, the person against which the agency action is directed may obtain judicial review without exhausting administrative remedies.

Historical Data

LA 13-07, eff. March 19, 2007.