

Cherokee Nation Code Annotated
Title 1: Administrative Procedure
Chapter 5: Judicial Review
§ 507. Exhaustion of administrative remedies
Cite as: 1 CNCA § 507

A. Except as otherwise provided in subsection (B), a person may file a petition for judicial review under this act only after exhausting all administrative remedies available within the agency whose action is being challenged and within any other agency authorized to exercise administrative review, except a petition for reconsideration.

B. A petitioner for judicial review of a rule need not have participated in the rulemaking proceeding upon which that rule is based.

C. If the issue that a petitioner for judicial review under this subsection challenges was not raised and considered in a rulemaking proceeding:

1. before bringing a petition for judicial review, the petitioner must petition the agency to initiate rulemaking under 1 CNCA § 317 to take action to resolve or cure the issue or issues that the petitioner is challenging; and

2. in the petition for judicial review the petitioner must disclose the petition to the agency for rulemaking and the final agency action on that petition.

D. A petitioner need not have exhausted his administrative remedies if this act or a statute other than this act provides that exhaustion is not required.

E. The Court may relieve a petitioner of the requirement to exhaust any or all administrative remedies to the extent that the administrative remedies are inadequate or would result in irreparable harm.

Historical Data

LA 13–07, eff. March 19, 2007.