

Cherokee Nation Code Annotated
Title 1: Administrative Procedure
Chapter 5: Judicial Review
§ 508. Agency record on judicial review
Cite as: 1 CNCA § 508

A. Judicial review of adjudication and rulemaking is confined to the agency record except as allowed by this section.

B. Within thirty (30) days after service of the petition, or within further time allowed by the Court or by other provision of law, the agency shall transmit to the Court the original or a certified copy of the agency record for judicial review of the agency action.

C. By stipulation of all parties to the review proceedings, the record may be shortened, summarized, or organized.

D. The Court may tax the cost of preparing transcripts and copies for the record against a party who unreasonably refuses to stipulate to shorten, summarize, or organize the record.

E. The Court may admit additional evidence when:

1. explanation or background of the decision is required;
2. a party alleges that the administrative record presented to the Court fails to disclose evidence or factors considered by the agency;
3. no record exists in cases where agencies are sued for a failure to take action; or

F. The Court may receive additional evidence if it is needed to decide disputed issues regarding:

1. improper constitution as a decision-making body, or improper motive or grounds for disqualification, of those taking the agency action;
2. unlawfulness of procedure or of decision-making process;
3. any material fact that was not required by any provision of law to be determined exclusively on an agency record of a type reasonably suitable for judicial review;
4. a failure to consider adequately a matter required to be considered by the agency's statute;
5. a factor not considered that is well known and relevant enough to be judicially noticeable as requiring consideration; or

6. whether the explanation or the record made by the appropriate agency procedures raises issues irrationally neglected by the agency.

Historical Data

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