

Cherokee Nation Code Annotated
Title 10A: Cherokee Nation Juvenile Code
Article 2
Chapter 2: Custody and Court Proceedings
§ 2-2-104. Preliminary inquiry--Petition
Cite as: 10A CNCA § 2-2-104

A. A preliminary inquiry shall be conducted to determine whether the interests of the public or of the child who is within the purview of the Cherokee Nation Juvenile Code require that further court action be taken. If it is determined by the preliminary inquiry that no further action be taken and if agreed to by the Attorney General, the intake worker may make such informal adjustment without a petition.

B. In the course of the preliminary inquiry, the intake worker shall:

1. Hold conferences with the child and the parents, guardian or custodian of the child for the purpose of discussing the disposition of the referral made;
2. Interview such persons as necessary to determine whether the filing of a petition would be in the best interests of the child and the community;
3. Check existing records of any district court or tribal court, law enforcement agencies, Department of Juvenile Justice, and Department of Human Services;
4. Obtain existing mental health, medical and educational records of the child with the consent of the parents, guardian or custodian of the child or by court order; and
5. Administer any screening and assessment instruments or refer for necessary screening and assessments to assist in the determination of any immediate needs of the child as well as the immediate risks to the community. All screening and assessment instruments shall be uniformly used by all intake workers, including those employed by juvenile bureaus, and shall be instruments specifically prescribed by the Department of Juvenile Justice.

C. Upon review of any information presented in the preliminary inquiry, the Attorney General may consult with the intake worker to determine whether the interests of the child and the public will be best served by the dismissal of the complaint, the informal adjustment of the complaint, or the filing of a petition.

D. Informal adjustment may be provided to the child by the intake worker only where the facts reasonably appear to establish prima facie jurisdiction and are admitted and where consent is obtained from the Attorney General, the parent of the child, legal guardian, legal custodian, or legal counsel, if any, and the child. The informal adjustment is an agreement

whereby the child agrees to fulfill certain conditions in exchange for not having a petition filed against the child. The informal adjustment shall be completed within a period of time not to exceed six (6) months and shall:

1. Be voluntarily entered into by all parties;
2. Be revocable by the child at any time by a written revocation;
3. Be revocable by the intake worker in the event there is reasonable cause to believe the child has failed to carry out the terms of the informal adjustment or has committed a subsequent offense;
4. Not be used as evidence against the child at any adjudication hearing;
5. Be executed in writing and expressed in language understandable to the persons involved; and
6. Become part of the juvenile record of the child.

E. The informal adjustment agreement under this section may include, among other suitable methods, programs and procedures, the following:

1. Participation in or referral to counseling, a period of community service, drug or alcohol education or treatment, vocational training or any other legal activity which in the opinion of the intake officer would be beneficial to the child and family of the child;
2. Require the child to undergo a behavioral health evaluation and, if warranted, undergo appropriate care or treatment;
3. Restitution providing for monetary payment by the parents or child to the victim who was physically injured or who suffered loss of or damage to property as a result of the conduct alleged. Before setting the amount of restitution, the intake officer shall consult with the victim concerning the amount of damages; or
4. Informal adjustment projects, programs and services may be provided through public or private agencies.

If the intake worker has reasonable cause to believe that the child has failed to carry out the terms of the adjustment agreement or has committed a subsequent offense, in lieu of revoking the agreement, the intake worker may modify the terms of the agreement and extend the period of the agreement for an additional six (6) months from the date on which the modification was made with the consent of the child or counsel of the child, if any.

F. If an informal adjustment is agreed to pursuant to subsection D of this section, the informal adjustment agreement may require the child to pay a fee equal to no more than

what the court costs would have been had a petition been filed. The child shall remit the fee directly to the Department of Juvenile Justice and shall be used to defray the costs for the operation of the Department of Juvenile Justice.

Historical Data

LA 11-21, eff. March 15, 2021.