

Cherokee Nation Code Annotated

Title 26: Elections

Chapter 2: Supervisory Bodies and Election Commission Office

§ 11. Cherokee Nation Election Commission

Cite as: 26 CNCA § 11

Election Commission: Establishment and Appointment. There shall be a Cherokee Nation Election Commission. The Election Commission shall be composed of five (5) members, two (2) appointed by the Council, two (2) appointed by the Principal Chief and one (1) selected by those four appointees, and this fifth member shall be confirmed by the Principal Chief and the Council. The Election Commission shall have the sole responsibility and explicit authority for the conduct of all Cherokee Nation elections, including activities described in subsection D of this section. Pursuant to the Constitution of the Cherokee Nation, Article IX, Section 1, the Election Commission shall be an autonomous and permanent entity, which shall be an independent commission in the performance of its statutory authority to govern the conduct of all elections and in the performance of such authority shall not be subject to direction, supervision, intervention or interference or of any other type of influence by the Executive Office or the Cherokee Nation Council. The Election Commission shall be subject to the Constitution of the Cherokee Nation and laws of the Cherokee Nation pursuant to its Constitutional independent and autonomous status. The Election Commission shall develop Policies and Procedures concerning personnel, contracting and meeting requirements which shall be exclusive and controlling as to the Election Commission. Such policies must include provisions relating to Cherokee preference in contracting, hiring and promotion.

A. **Term.** Each Election Commissioner shall serve a term as set forth below.

1. **Staggered Terms:** Beginning with the appointment of an Election Commissioner in October 2011, the Tribal Council shall appoint one (1) member to a four (4) year term and one (1) member to a six (6) year term. The Principal Chief shall appoint one (1) member for a four (4) year term and one (1) member for a six (6) year term. The members shall then select a person to be the fifth member of the Election Commission for a four (4) year term to be confirmed by the Principal Chief and Tribal Council. Thereafter all appointments shall be for a four (4) year term.

2. **Holdover Clause:** Members of the Election Commission shall remain in office until their successor is duly appointed and confirmed.

3. **Vacancies.** In the case of death, removal or resignation of a Commissioner the Branch of Government which made the appointment shall select the replacement, who shall serve the remainder of the term.

B. **Qualifications.** No elected official of the Cherokee Nation, no person who is related within the third degree by either consanguinity or affinity to an elected official, no employee of the Cherokee Nation, including any corporation, agency or other entity which is at least fifty-one percent (51%) owned by the Cherokee Nation, no person who has been convicted of a felony, no person who has ever plead no contest or guilty to a felony without said matter being expunged from court records, or convicted of a crime in any tribal court of any federally recognized Indian tribe that would be considered a felony in state or federal court shall serve on the Election Commission. No Candidate or regular employee of a Candidate for office or person who is related within the third degree by either consanguinity or affinity to a Candidate for office shall serve on the Election Commission.

C. **Duties.** The Election Commission shall have the responsibility of conducting all General Elections and Special Elections. The Election Commission shall also engage in the following activities in the performance of its responsibilities:

1. Elect a Chairperson, Vice-Chairperson/Parliamentarian, and a Secretary/Treasurer from its own membership;
2. Publish a schedule for its regular meetings, establish an agenda for each meeting in accordance with Robert's Rules of Order, approve and maintain correct and accurate minutes of its deliberations, and Rules and Regulations of the Election Commission which shall be regularly posted on the Cherokee Nation website;
3. Hire independent legal counsel and/or hire independent investigator as needed, who shall not be employed in any other manner by the Cherokee Nation or any agency or enterprise of the Cherokee Nation;
4. Use available technology, including without limitation facsimile machines and computer technology; provided that computer technology may include any necessary accompanying consultant services related thereto, in the conduct of elections; and provided further that selection of computer hardware, computer software and computer consultant services and related costs shall be approved by the Principal Chief and the Council;
5. Oversee the registration of voters;
6. Maintain current voter lists and shall use all efforts to diligently use certified sources; such as current election absentee ballot request forms which shall contain the current home address, 911, County Treasurer's and the County Assessor's web sites, Cherokee Nation

Registrar's office and the Cherokee Nation tag office to update said list with correct address and phone numbers where the Election Commission does not currently have an accurate address;

7. Develop Rules and Regulations necessary to conduct Cherokee Nation elections, provided that such Rules and Regulations shall be published and transmitted to the Council no later than ninety (90) days before the Election Period for the General Election for which said Rules and Regulations are intended to apply, unless a shorter time is prescribed by the Council for purposes of a Special Election; Said rules are to be published in the *Cherokee Phoenix* and on the official web site of the Cherokee Nation as soon as practicable after transmittal to the Council. The Election Commission shall amend their rules, regulations and forms upon passage of, or as soon as practicable, all legislation adopted by the Council of the Cherokee Nation applicable to and/or related to Cherokee Nation elections, including, but not limited to, legislation amending the existing provisions of Title 26 and/or creating new election related provisions within the Code;

8. Approve the number and location of Precincts at least forty-five (45) days in advance of the General Election, and said locations shall be published in the *Cherokee Phoenix* and shall be posted on the official web site of the Cherokee Nation after their selection, provided that in the event of unforeseen circumstances such as fire, natural disasters or other such events, the location may be changed by the Commission with reasonable and practicable public notice to Cherokee Citizens;

9. Provide the various Precinct Board Officials and temporary election workers with the proper instruction and training for performing their duties. All Precinct Board Officials are required to attend the mandatory training to work in any General or Special Election;

10. Determine the eligibility of all Candidates for Elective Office pursuant to 26 CNCA § 36(C) of this Title and have the first authority to consider challenges to Candidate eligibility;

11. Conduct all General Election or Special Election recounts pursuant to § 93 of this Title;

12. Conduct all General Elections and Special Elections by secret ballot;

13. Prepare and order the official ballot or ballots prior to the applicable General Election or Special Election;

14. Issue ballots and all support materials to hold a General Election or Special Election;

15. Be responsible for the storage and safekeeping of all election ballots and related documents after the close of the General Election or Special Election pursuant to procedures established by the Election Commission;

16. Engage in any other activities for the performance of its responsibilities as required by the provisions of this Title;

17. Provide written reports and recommendations on not less than a monthly basis to the Council and Principal Chief through the Rules Committee on activities of the Election Commission related to the conduct of elections. The Chairperson or his/her designee shall submit said report no less than on a monthly basis and report in person through the Rules Committee on a quarterly basis or as requested by the Speaker of the Council or Chair of the Rules Committee; and

18. Audit all financial reports and disclosures required by this Title, and to report any Criminal Violations of this Title to the Cherokee Nation Attorney General for prosecution as applicable. Further the Election Commission has the authority to assess any penalties or other sanctions authorized by this Title. Any accusations of Criminal Violations of this Title shall be reported to the Cherokee Nation Marshal for investigation and/or the Cherokee Nation Attorney General for prosecution as applicable. Should the Cherokee Nation Attorney General prosecute any Criminal Violation(s), a report to the Cherokee Nation Election Commission will be made for possible assessment of penalties and/or disqualification under procedures found at § 38 of this Title.

D. Meetings. The Election Commission shall conduct business in open meetings at the Election Commission Office or other public location designated by the Election Commission, pursuant to Policies and Procedures developed by the Election Commission, provided that the Election Commission may attend work sessions in which the duties of the Election Commission are performed, such as reviewing Candidate eligibility packets, financial filings, locating and securing Precincts, registering voters, assisting in day-to-day operations of the Election Commission Office, preparing election supplies and other miscellaneous duties and may engage in work sessions where no policy decisions were required by a vote of the Election Commission that any action requiring the vote of the body shall be referred to the Election Commission in an open meeting.

E. Compensation. The Election Commission members shall receive stipends or compensation for their services in accordance with their itemized budget approved by the Council.

F. Removal of Election Commission Members. An Election Commission member may be removed as a member of the Election Commission for committing any of the following acts:

1. Willful neglect of the duties prescribed in this Title;
2. Corruption in office;

3. Acting in his or her official capacity while under the influence of alcohol or un-prescribed narcotics;
4. Incompetency, misfeasance, or malfeasance of office;
5. For any conviction involving moral turpitude committed while in office;
6. For campaigning for any Candidate or measure or who otherwise improperly interferes with or attempts to improperly interfere with the conduct of any election;
7. Criminal conviction for violating any law of the Cherokee Nation that would be a felony in the State of Oklahoma; or
8. Criminal felony conviction for violating any state or federal law.

A petition for removal of an Election Commissioner may be brought by a majority vote of the Council, a majority vote of the Election Commission or by the Principal Chief. An Election Commissioner accused of violating the provisions of this Title shall be given notice of the hearing and charges and an opportunity to respond to the charges. The hearing shall be before the Cherokee Nation Supreme Court in accordance with its Rules and Procedures. If the Cherokee Nation Supreme Court finds that a member of the Election Commission has committed an act that would warrant removal that person shall be removed as a member of the Election Commission.

Historical Data

LA 06–10, eff. February 23, 2010. Amended LA 46–12, eff. December 17, 2012; LA 04–14, eff. February 19, 2014; LA 12–16, eff. May 18, 2016. Amended LA 22–20, eff. October 13, 2020. Amended LA 48–21, eff. November 15, 2021. Amended LA 14–22, eff. May 16, 2022. Amended LA 30–24, eff. September 16, 2024.