

Cherokee Nation Code Annotated

Title 26: Elections

Chapter 4: Qualifications of and Filing by Candidates

§ 39. Disqualification Hearings

Cite as: 26 CNCA § 39

A. Hearing Authority. If an investigation uncovers evidence that a Candidate has violated §§ 43, 44, 46, 48, and/or 104 of this Title; the Election Commission shall initiate a disqualification hearing.

B. Notice and Scheduling of Hearing. The Election Commission shall provide a Candidate with reasonable notice of any violation which subjects the Candidate to disqualification from an election of the Cherokee Nation and the opportunity to respond at a hearing before the Election Commission. With due regard for the convenience of the parties, and of their representatives or witnesses, the Election Commission shall, as early as possible, fix the date, time, and place for the hearing and notify all parties and interested persons.

C. Conduct of Hearing. Unless otherwise directed by a regulation adopted by the Election Commission, the Office of the Attorney General shall present evidence of any alleged violation. The Candidate may present legal argument, witness testimony, and evidence to rebut the basis of such evidence. The Candidate may be represented by counsel at their own expense in accordance with § 44 of this Title.

D. Decision. A decision of the Election Commission issued pursuant to this Section shall be served on the parties no later than five (5) business days following the date of the hearing.

E. Appeal. Any decision of the Election Commission regarding a Candidate's disqualification from an election of the Cherokee Nation shall be appealable to the Cherokee Nation Supreme Court pursuant to § 40.

F. Finding of Intentional Violation. Upon a formal finding by the Election Commission that a disqualifying act constitutes an "Intentional Violation" of this Title, rather than a "Technical Violation," the Candidate shall be ineligible to seek or hold elective office in the Cherokee Nation for a period of five (5) years from the date of the Commission's finding. The Election Commission shall have sole authority to conduct a hearing and determine whether a violation was intentional. Such proceedings may be initiated only upon the formal request of: (a) a member of the Election Commission; or (b) the challenging party in a candidacy or election challenge.

In determining whether a violation was “intentional,” the Election Commission shall consider whether the Candidate acted with the specific intent to circumvent this Code or obtain an unfair electoral advantage, as opposed to committing a “Technical Violation” arising from a minor clerical, administrative, or filing error.

Historical Data

LA 14-22, eff. May 16, 2022. Amended LA 20-26, eff. June 11, 2026.