

Cherokee Nation Code Annotated

Title 26: Elections

Chapter 6: Conduct of Elections

Article IV. Count and Return of Votes—Recounts and Runoffs

§ 93. Recounts

Cite as: 26 CNCA § 93

A. Person Authorized to Request Recount. In elections for Elective Office, only a defeated Candidate shall be permitted to request a recount.

B. Recount for Issues or Questions. For elections regarding issues or questions where no Candidate is involved, recounts shall be authorized only when a Registered Voter who participated in the election presents a petition signed by a number of Registered Voters who participated in the election equal to one percent (1%) or more of the total votes cast for and against the issue.

C. Request for Recount; Notice. A written request for recount of any election results, including appeals of Special Elections on Constitutional Amendments must be filed with the Election Commission Chairperson at the Election Commission Office no later than 5:00 p.m. on the first Wednesday following the election. The person filing the request shall serve a copy of the request on other Candidates for the race in which the person was a Candidate. When possible, service shall be made by personal delivery or facsimile transmission on date of filing; but if such service is not possible, service shall be made by mail on the date of filing.

D. Filing Fee When Recount Sought. The request for recount shall be accompanied by a fee in the amount of seven hundred fifty dollars (\$750.00) per district for which a recount is requested, and seven hundred fifty dollars (\$750.00) for recount of Absentee Ballots. Fees shall be paid by cash, cashier's check, money order, or check made payable to the Election Commission. Said fees shall be non-refundable if a recount is conducted. If a recount is not conducted due to a finding by the Cherokee Nation Supreme Court that the ballots were not properly preserved, then the fee shall be refunded.

E. Location of Recount. The recount shall be conducted in the Cherokee Nation Council chambers or other appropriate facilities as determined by the Election Commission.

F. Time for Recount. The recount shall occur no later than the first Friday following the election date.

G. Cherokee Nation Supreme Court Determination Regarding Preservation of Ballots Prior to Recount. It shall be the duty of the Cherokee Nation Supreme Court to attend all

recounts. Prior to the recount, the Cherokee Nation Supreme Court shall hear evidence as to whether the ballots have been preserved by the Election Commission in the manner prescribed by law; whether they are the identical ballots cast by the Voters; and whether the ballots have been exposed to the reach of unauthorized persons so as to afford a reasonable opportunity for tampering with or changing the ballots. The judgment of said Court regarding such questions shall be final and conclusive.

H. Conduct of Recount. If the judgment of the Cherokee Nation Supreme Court is that the ballots have been properly preserved, then the actual, physical recount of the ballots shall be conducted immediately thereafter under the exclusive supervision of the Election Commission. The Election Commission shall conduct the recount, and shall select and supervise the persons performing the recount functions; provided that no employees of the Cherokee Nation, except for staff of the Election Commission, no employee of a corporation, agency or other entity which is at least fifty-one percent (51%) owned by the Cherokee Nation, and no Cherokee Nation Official shall participate in a recount. The Candidate seeking the recount and all other Candidates for the elective office involved in the recount, persons having filed an Initiative or Referendum Petition, or their designated representatives, shall be permitted to attend the recount. Once the actual physical recount is commenced under the supervision of the Election Commission, the Cherokee Nation Supreme Court will limit its role to answering questions regarding tribal law and insuring that tribal law is followed.

I. Automatic Appeal Where Recount Not Possible. If the Cherokee Nation Supreme Court cannot determine that the ballots have been properly preserved, then no recount shall be conducted, and the fees paid by the Candidate seeking the recount shall be refunded. The Candidate may allege the failure of the Election Commission to properly preserve the ballots as partial grounds, but not the sole basis, for an Election Appeal, provided that the appeal is filed no later than the second Monday following the election date, and provided further that all other requirements of § 101 of this Title shall be met.

J. Recount Results. Following the recount, the Election Commission shall verbally announce the number of votes in favor of each Candidate, Initiative Petition or Referendum Petition, and the number of votes opposed to each Candidate, Initiative Petition or Referendum Petition. When the Election Commission prepares the Final Certificate of Votes, the figures obtained during the recount shall be controlling over earlier figures if said earlier figures were different, and each member shall certify on the Original Certificate that a recount was held, the date of the recount, and that the Election Commission and the Cherokee Nation Supreme Court confirmed the accuracy of the results. The Certified

Recount Results shall be the final Official Election Results, and no further recounts shall be held.

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 14–22, eff. May 16, 2022.