

Cherokee Nation Code Annotated

Title 26: Elections

Chapter 6: Conduct of Elections

Article V. Challenges to Election Results

§ 101. Procedure for Election Appeals Generally

Cite as: 26 CNCA § 101

A. Person Authorized to Appeal. Only a defeated Candidate shall be permitted to file an appeal in Appeals of Elections for Office. For elections on issues or questions when 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.

B. Filing Fees. An Appeal Petition shall not be accepted for filing unless accompanied by a non-refundable fee in the form of either a cashier's check or money order in the amount of five hundred dollars (\$500.00). Fees shall be used to defray actual costs. Fees must be paid from personal or campaign funds, and may not be paid from funds of the Cherokee Nation or any of its entities.

C. Bond for Petition Alleging Fraudulent Voting. A petition alleging fraudulent Precinct voting must be filed with a cash bond of Five Hundred Dollars (\$500.00). If fraudulent absentee voting is also alleged, the petition must be filed with a separate cash bond in the amount of one thousand dollars (\$1,000.00). Said bonds shall be used to guarantee the payment of any and all liabilities or judgments arising as a result of the petition that was filed.

D. Appeal Petition. An Appeal Petition challenging the validity of an election outcome, including appeals of Initiative Petitions and Special Referendum Elections, shall be filed with the Cherokee Nation Supreme Court no later than the second Monday following the election date which is the subject of the appeal. The petition must be in writing and must include the Petitioner's name, address and Cherokee Nation Registration Number; the relief requested; and specific statement regarding each alleged violation of this Title herein or of any election procedures adopted by the Election Commission in force at the time of the alleged violation, including the date of the alleged violations, the identity of the person or persons involved in the alleged violations and the Precinct where the violation occurred. If fraudulent voting or Election Fraud is alleged, the petition shall also state the specific acts constituting the alleged fraud, identify each Precinct where the alleged fraud occurred, the estimated number of fraudulent votes cast at each specified precinct

location. If fraudulent Absentee Ballot voting is alleged, the petition shall also state the specific acts constituting the alleged fraud, and estimated number of fraudulent votes cast by Absentee Ballot. If the Appeal Petition does not contain the required information, or if the allegations do not allege sufficient violations to affect an election outcome, the petition shall be deemed frivolous by the Cherokee Nation Supreme Court and shall be dismissed.

E. Answer; Scheduling of Hearing. The Election Commission shall file a complete copy of all documentation from the underlying proceedings, including a transcription with the Cherokee Nation Supreme Court. The Cherokee Nation Supreme Court shall set the matter for hearing on a date no later than three (3) working days after the date of the filing of the petition; provided that the hearing may be continued to a later designated date for good cause not more than three (3) days from date of the originally scheduled hearing. The Court shall cause the notice of the hearing to be personally served or sent by facsimile transmission to the Petitioner, the Election Commission and any other parties to the proceeding; and a copy shall also be mailed on the date that the notice is filed.

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.