

Cherokee Nation Code Annotated
Title 26: Elections
Chapter 6: Conduct of Elections
Article V. Challenges to Election Results
§ 102. Conduct of Appeal Hearings

Cite as: 26 CNCA § 102

All election appeal hearings held by the Cherokee Nation Supreme Court shall be governed by the following rules of procedure, which shall supersede all inconsistent general rules of procedure established by the Cherokee Nation Supreme Court:

1. Legal Counsel. The Petitioner may be represented by counsel at his or her own expense; no Cherokee Nation funds shall be used for legal fees of a petitioner or other person challenging an election and the Election Commission may be represented by its designated legal counsel.
2. Hearing. The Cherokee Nation Supreme Court shall consider the record on appeal provided by the Election Commission, and may consider any additional evidence which it deems relevant to a determination on the merits. The Court shall hear oral arguments consistent with the conduct of civil appellate proceedings. A stenographic record of the proceedings and testimony shall be required.
3. Burden of Proof. The decision shall require the invalidation of election results and a new election only if the Petitioner proves by preponderance of the evidence that substantial violations of this Title or of any election procedures adopted by the Election Commission in force at the time that the alleged violations occurred and that said violations affected or had a strong likelihood of affecting the election outcome.
4. Decision. The Cherokee Nation Supreme Court may verbally announce its decision. The decision shall also be placed in writing, and each Justice shall indicate his or her agreement or disagreement with the decision by placing his or her signature in the appropriate place thereon. The decision shall be issued no later than two (2) days following the date of the hearing and shall be served on the parties by mail, email, fax or in person. The decision shall include appropriate relief based on the alleged violation. Such relief may include the following: validation or correction of voting results; validation or correction of election outcomes; an order that the Petitioner is lawfully entitled to have his or her name appear on the Runoff Election Ballot; or an order certifying a Candidate as the successful Candidate; or invalidation of the election for a specific office or offices and the requirement of a new election in the cases where it is impossible to determine the correct election outcome with mathematical certainty. In any case where fraud is proven on the

part of a Candidate, the Candidate shall be declared ineligible for the office for which he or she was a Candidate. The decision of the Cherokee Nation Supreme Court shall be final.

5. Civil Liability of Unsuccessful Petitioner Who Alleged Fraud. In all cases where a petition is filed that alleges fraud, if after a hearing the allegations are not found to be reasonably sustained by competent evidence, then, the Petitioner shall be civilly liable in damages to the Election Commission and to any Candidate affected by said claims if a party to the proceeding and for all damages sustained, including reasonable attorney's fees and all reasonable and proper costs of conducting such contest.

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.