

Cherokee Nation Code Annotated
Title 51: Officers and Employees
Chapter 4: Office of Attorney General
§ 105. Functions and duties of Attorney General
Cite as: 51 CNCA § 105

A. Pursuant to Article VII, Section 13 of the Cherokee Nation Constitution, the Attorney General "shall represent the Cherokee Nation in all criminal cases in the courts of the Nation, and in all civil actions wherein the Cherokee Nation is named as a party, and shall have such other duties as the Council may prescribe by law."

B. In addition to the duties prescribed by the Constitution, the duties of the Attorney General as the chief legal officer of the Nation shall be:

1. To supervise Cherokee Nation's representation in all litigation in which Cherokee Nation, an agency, or officer thereof is interested, and shall direct all special attorneys appointed pursuant to this title and all contract attorneys in the discharge of their respective duties; the conduct of litigation in which Cherokee Nation, an agency, department or officer thereof is a party, or is interested, is reserved to the Attorney General, provided that the Attorney General may waive this requirement for specific legal issues which do not implicate governmental interests;
2. To initiate or appear, at his or her discretion, in any action in which the interests of the Nation or the People of the Nation are at issue, and prosecute and defend in any court or before any commission, board or officers or other adjudicatory body, administrative tribunal or body of any nature, in all civil or criminal legal or quasi-legal matters, any cause or proceeding, in which the Nation may be interested; and when so appearing in any such cause or proceeding, the Attorney General may, if the Attorney General deems it advisable and to the best interest of the Nation, take and assume control of the prosecution or defense of the Nation's interests therein, provided that this section includes the authority to initiate or appear in any action involving a government-owned company;
3. To prosecute all actions necessary under Title 10 of the Cherokee Nation Code Annotated for the protection and welfare of children and juveniles in the Cherokee Nation Courts, and to intervene, at the discretion of the Attorney General, in any action in any state court wherein intervention is permitted pursuant to the federal Indian Child Welfare Act, 25 U.S.C. § 1901 et seq.;
4. To give an official opinion upon all questions of law submitted to the Attorney General by any Member of the Tribal Council, the Principal Chief, the Deputy Principal Chief, or by the

Group Leader or equivalent of any Cherokee Nation board, commission or executive branch department, and only upon matters in which the requesting party is officially interested. Said opinions shall have the force of law in Cherokee Nation until a differing opinion or order is entered by a Cherokee Nation Court;

5. To prepare drafts of regulations, and of contracts and other instruments in which the Cherokee Nation government is interested and to render opinions on the legal sufficiency of all contracts and other instruments in which the Cherokee Nation is interested and the best interests of the people of the Cherokee Nation are served;

6. To prepare legislation and resolutions as the Attorney General deems appropriate and to provide review of all legislation in whatever form in order to provide a written opinion thereon as to the possibility of conflicts with other laws and the Constitutionality of said bills;

7. To enforce the proper application of monies appropriated by the Tribal Council and to prosecute breaches of trust in the administration of such funds;

8. To institute actions to recover Nation monies illegally expended, to recover Nation property;

9. To keep and file copies of all opinions of the Office of Attorney General, and to keep an index of all such opinions according to subject and section of the law construed or applied and to cause to be published such of his or her opinions as he or she considers valuable for preservation and to prescribe the manner for the publication of the opinions;

10. To keep a register or docket of all actions, demands and investigations prosecuted, defended or conducted by the Attorney General on behalf of the Nation. Said register or docket shall give the style of the case or investigation, where pending, court number if any, the substance of the matter, result and the names of the assistant(s) who handled the matter;

11. To keep a complete office file of all cases and investigations handled by the Attorney General on behalf of the Nation;

12. To furnish legal advice to Nation officials and all executive departments, boards, commissions, agencies, instrumentalities and officers of Cherokee Nation concerning any matter arising in connection with the exercise of their official powers and duties, and to supervise and direct the legal business of every executive department, board, commission, agency, instrumentality and officer of Cherokee Nation, provided that this section does not include advice and representation to such officials in their individual capacity, nor does it include advice to tribal citizens who are not officials of the Nation, and provided further

that, in order to preserve the independence of the Office of Attorney General and to avoid actual and perceived conflicts of legal advice, the Office of Attorney General shall not provide legal advice on day-to-day operations of the Office of Principal Chief or Deputy Principal Chief;

13. To investigate any report by the Treasurer or the Office of Audit and Compliance filed with the Attorney General and prosecute all actions, civil or criminal, relating to such reports or any irregularities or derelictions in the management of public funds or property which are violations of the laws of the Nation;

14. To investigate and prosecute all actions, civil or criminal, relating to civil actions or crimes against or within the jurisdiction of Cherokee Nation, provided that any such criminal actions shall be investigated in coordination with the Marshal Service, and when deemed appropriate by the Attorney General, with any federal or local law enforcement agency and to convene grand juries in such manner and for such purposes as provided by law, provided that such grand juries shall be composed of citizens of Cherokee Nation;

15. To probate, at the request of Cherokee Nation Real Estate Services, restricted estates;

16. To settle any case or controversy on behalf of the Nation, except that a settlement involving injunctive relief which substantially impacts the operation or programs of a Nation agency or would impose obligations requiring the expenditure of funds in excess of unallocated unencumbered monies in the agency's appropriations or beyond the current fiscal year shall be reviewed prior to its finalization by the Principal Chief and the Tribal Council. The purpose of the review is to determine the budgetary, programmatic and operational impact of the proposed settlement;

17. To oversee all Nation activities related to child-support enforcement as designated by law;

18. Coordinate with the Marshal's Service the following duties:

a. bailiff duties;

b. transportation of prisoners;

c. protection of the Courthouse and the court staff;

d. protection of witnesses, parties and prosecutors;

e. service of process;

f. and to obey the lawful orders and directions of the Courts.

19. To direct and supervise all activities of the Attorney General's Office;

20. To prepare the budget for the Attorney General's Office;
21. To promulgate such rules, regulations, policies, and procedures as the Attorney General deems necessary to fulfill the duties of the Office;
22. To promulgate rules, regulations, policies, and procedures for the qualifications and conduct of employees of the Attorney General's Office, which may include rules for conduct and corresponding disciplinary actions for breaches of conduct which are more stringent than those of the Cherokee Nation Human Resources Policies and Procedures;
23. To carry firearms upon authorization of the Cherokee Nation Marshal;
24. To designate an individual to act as Attorney General in the absence of the Attorney General so long as said designation does not exceed six (6) months; and
25. To engage in other activities as may be prescribed in other sections of the Cherokee Nation Code.

Historical Data

LA 12-07, eff. March 19, 2007.