

LEGISLATIVE ACT OF THE
CHEROKEE NATION

Amended See
LA # 9-85

(1-78)

A Law Establishing the Rules and Regulations for
Conducting all Cherokee Tribal Elections

WHEREAS, the citizens of the Great Nation of the Cherokees have an unshakable belief and commitment to the representative form of government, and

WHEREAS, the people of the Cherokee Nation did ordain and establish the Constitution of the Cherokee Nation of Oklahoma, providing for an orderly and proper form of representative government, responsive to the people, and

WHEREAS, the Constitution charges the Council in Article IX, Section 1, to enact an appropriate law, that will govern the conduct of all elections, and

WHEREAS, the Council, in the regular October meeting 1977, passed a Resolution creating a Special Ad Hoc Committee of the Council, to draft and submit to the full Council an appropriate law to govern all tribal elections in accordance with the Constitution, and

WHEREAS, the Special Ad Hoc Committee of the Council having completed their task, as charged, in the spirit and sincerity of our great heritage, the same being presented to the Council for approval as attached herewith, therefore

BE IT ENACTED by the Cherokee Nation of Oklahoma this 6th day of May 1978.

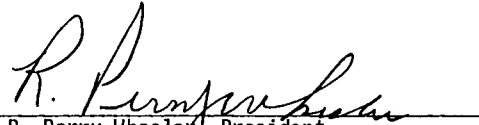
CERTIFICATION

I, the undersigned as President of the Cherokee Nation Tribal Council, do hereby certify that the Cherokee Nation Tribal Council is composed of fifteen (15) members, of whom thirteen (13) constituting a quorum, were present at a meeting thereof duly and specially called, noticed, convened, and held this 6th day of May 1978, and that the foregoing law was duly adopted at such meeting by the affirmative vote of eleven (11) members.

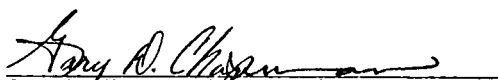
YEAS AND NAYS AS RECORDED:

Don Crittenden	<u>Yes</u>	Houston Johnson	<u>Yes</u>
Leo Fishinghawk	<u>Yes</u>	Robert Swimmer	<u>Yes</u>
Agnes Cowen	<u>Yes</u>	Robert McSpadden	<u>Yes</u>
Gary Chapman	<u>Yes</u>	T.V. Thorne	<u>Yes</u>
Frank Coon	<u>Yes</u>	Hiner Doublehead	<u>Yes</u>
George Wickliffe	<u>Yes</u>	Sam Ed Bush	<u>Yes</u>
Goodlow Proctor	<u>Yes</u>	J. Gary Chopper	<u>Yes</u>
Joe Ragsdale	<u>Yes</u>		

APPROVED BY THE COUNCIL of the Cherokee Nation this 6th day of May 1978.


R. Perry Wheeler, President
Council of the Cherokee Nation

Attest:


Gary D. Chapman, Secretary/Treasurer
Cherokee Nation of Oklahoma

CHEROKEE NATION OF OKLAHOMA

ELECTION LAWS

POLL VOTING

SECTION I

1. PURPOSE

These rules are adopted for the purpose of conducting all Cherokee Tribal Elections; e.g., Principal Chief, Deputy Principal Chief, Council and Constitutional amendments and referendums of the Cherokee Nation of Oklahoma.

2. AUTHORITY

These regulations are in accordance with Public Law 91-495 enacted on October 22, 1970. Pursuant to Article 9, Section I of the Constitution for the Cherokee Nation of Oklahoma approved by referendum on June 26, 1976.

3. ELIGIBILITY

All enrolled citizens of the Cherokee Nation of Oklahoma whose names appear on the Dawes Commission Roll, or any person 18 years of age or above who has a lineal ancestor on the above mentioned roll and who is registered to vote as provided herein shall be entitled to vote in all elections and referendums of the Cherokee Nation; however, no person who is registered to vote in another tribe shall be eligible to vote. Eligibility to vote shall have no bearing in inheritance or participation in the distribution of any assets in any manner.

4. TENURE

Tenure of the Principal Chief, Deputy Principal Chief, and Council Members shall be a term of four (4) years from the date of August 14, 1979, and each August 14 every four (4) years thereafter except for vacancies that are filled in accordance with Article 6, Section 4 and 5 of the Constitution and Legislative Act 5-76.

5. REGISTRATION TO VOTE

- a. Those persons whose name appears on the Cherokee Registry as of the first day of business in March preceding the first general election of 1979 and every four (4) years thereafter shall be afforded the right to vote in all Cherokee Tribal Elections.
- b. Nothing in this enactment shall be construed to prohibit the right of any Cherokee who possesses a valid voter card issued by the Cherokee Nation of Oklahoma pursuant to the two elections for Principal Chief held pursuant to PL 91-495 enacted on October 22, 1970, for the first general election 1979, ONLY.

6. TRIBAL ELECTION COMMITTEE

There shall be a Tribal Election Committee composed of five (5) members, two (2) appointed by the Council, two (2) appointed by the Chief and one (1) by those four (4) who shall be responsible for all elections conducted by the Cherokee Nation of Oklahoma and shall serve for a period of six (6) months following the general election or as extended by the Council.

- a. It shall be the responsibility of the Tribal Election Committee to provide the Tribal Election Board Officials with the proper instructions for performing their duties.
- b. The Tribal Election Committee shall elect a Chairman from its own membership.
- c. No Elected Official of the Cherokee Nation of Oklahoma or tribal employee shall serve on the Tribal Election Committee or Election Boards. No candidate or regular employee of a candidate for office or is related within the third degree by either consanguinity or affinity to a candidate for office shall serve on the Tribal Election Committee or Election Boards.
- d. It shall be the duty of the Tribal Election Committee to prepare the official ballot or ballots.
- e. The regulations developed by the Tribal Election Committee shall be submitted for approval to the Council at its first quarterly Council meeting of the next election year for approval.

7. VOTING PLACE AND HOURS

Voting places, with the approval of the Council, shall be provided by the Tribal Election Committee and shall be open during the hours from 7 a.m. to 7 p.m. on the day of the election. Proper notice of the election shall be given by the Tribal Election Committee.

TRIBAL ELECTION BOARD

- a. There shall be an Election Board consisting of not more than seven (7) persons, inspector, judge, clerk and counters, appointed by the Tribal Election Committee to conduct the election at the voting places in each of the County Seats in Adair, Craig, Cherokee, Delaware, Mayes, McIntosh, Muskogee, Nowata, Ottawa, Rogers, Sequoyah, Tulsa, Wagoner, and Washington Counties or until otherwise specified by law.

b. The Board shall have the following specific duties:

1. To ascertain that the name of each person offering to vote is on the official voting list for the particular voting place.
2. To see that only one ballot is cast by the voter himself; that the voting list is checked and that the voter countersigns or appropriately checks his name on the register of persons voting. If a voter presents himself and states that he, because of a physical disability or infirmity or language barrier is unable to mark his ballot, the inspector should recite the following oath:

"Do you solemnly swear or affirm that you are unable to mark your ballot for voting because of a (name appropriate disability)."
3. Any challenge of the right of a person to vote shall be decided by the election board, whose decision shall be final.
4. To keep the ballot boxes locked at all times except when the ballots are being counted.
5. To count the ballots cast and to make a tally thereof.
6. To make a certified election return and post a copy thereof at the voting place.
7. To preserve spoiled and mutilated ballots.
8. After counting, to return all of the ballots cast to the ballot boxes, lock and mark the boxes with the name of the voting place and date of election.
9. To return the unused ballots, spoiled and mutilated ballots and locked ballot boxes to the Tribal Election Committee immediately following the election.
10. No member of the Election Board shall leave the voting place during voting hours without permission of the inspector.

9. WATCHERS

Candidates for the Office of the Principal Chief, Deputy Principal Chief, and each candidate for the Council may submit two names as their designated watchers at each polling place. The selection of the watchers and their designated polling place shall be by random drawing of names from a hat by the Council until the proper amount of names have been drawn. (Two for each polling place.) No candidate for any elected office in the Cherokee Nation shall be a watcher.

10. VOTING LISTS

The Cherokee Tribal Registrar shall prepare a list of qualified voters to be used by the Tribal Election Committee for conducting Tribal elections. Each candidate for an elective office of the Cherokee Nation shall have the opportunity to secure a list of registered voters. Said list may be obtained for a fee of \$100 per list paid to the Tribal Election Committee, Cherokee Tribal Office, Tahlequah, Oklahoma. Duplication of this list shall be prohibited.

11. MANNER OF VOTING

- a. Voting shall be by secret ballot.
- b. Except as otherwise provided any registered voter may by appearing at his prescribed voting place, announcing to the Election Board his name and address and by marking and placing in the ballot box the ballot which shall be handed to him.
- c. Any registered voter who will be unable to vote in person may vote by absentee ballot as prescribed in Section II.

12. ELECTION RETURNS

- a. The ballots cast shall be counted and tallied by the Election Board immediately following the close of the election. Absentee ballots shall be counted on election day in accordance with Section II, Item 10.
- b. Results of the voting shall be made by certified return to the Election Committee and a copy of the return shall be posted at the voting place.
- c. In accordance with Article 6, Section I, of the Constitution, the total results will be posted by the Tribal Election Committee at the Election Headquarters as soon as possible after closing of the polls and counting of the absentee ballots.
- d. After counting, all ballots cast shall be placed in ballot boxes, locked, marked with the name and voting place and the date of the election by the Election Committee. All unused and spoiled or mutilated ballots shall also be given to the Election Committee. The Election Committee will store the ballots with the Office of the Superintendent of the Bureau of Indian Affairs, Tahlequah Agency, Tahlequah, Oklahoma.

13. RECOUNT

Only candidates for Office may ask for a recount. A fee of \$50 per voting place will be charged the

candidate requesting the recount. \$200 for absentee ballots recount. Time limit for filing for a recount shall be from the first working day following the day of the election and shall continue for five (5) working days. Persons working on recount will be appointed by the Tribal Election Committee. Tribal Employees will not be used for recount. Recounts shall be conducted in the presence of the Judicial Appeals Tribunal.

14. WINNER

There shall be a run off for the Offices of Principal Chief and Deputy Principal Chief for the two top men in each of the respective offices with the exception, if one man for each of the respective positions should obtain a simple majority of the votes cast for the respective office. A simple majority meaning over 50 percent or any fraction thereof. In the event of a tie for the last place or places in the Council election, a subsequent election shall be held, pursuant to rules developed by the Tribal Election Committee.

15. ELECTIONEERING

No person shall be allowed to electioneer within three hundred (300) feet of any ballot box while an election is in authorized progress, nor shall any person or persons, except election officials and other persons authorized by law, be allowed to approach the ballot box while an election is in progress. No printed material other than that provided by the Election Committee shall be publicly placed or exposed within three hundred (300) feet of any ballot box, while an election is in progress. The Tribal Election Committee shall be charged with the responsibility of developing the policies on electioneering with the approval of the Council.

16. SPECIAL ELECTIONS

Special Elections shall be called by the Council for specifically stated purposes.

17. QUALIFICATIONS FOR CANDIDATES

Each candidate who desires to run for an elective tribal office within the Cherokee Nation of Oklahoma shall meet the following general qualifications as well as the specific qualifications according to the Constitution of the Cherokee Nation of Oklahoma in Article III, Sections 1 and 2; Article V, Section 3; Article VI, Sections 2 and 3; and Article IX, Sections 1, 2, and 3 and the tribal election laws.

Qualifications for Principal Chief:

- a. The candidate for Principal Chief shall be a citizen of the Cherokee Nation of Oklahoma in accordance with Article III.
- b. The candidate shall have been born within boundaries of the United States of America, its territories or possessions.
- c. The candidate shall have obtained the age of thirty (30) years at the time of the election.
- d. The candidate shall be a member by blood of the Cherokee Nation of Oklahoma.
- e. The candidate must file a certificate of degree of Indian blood from the Bureau of Indian Affairs prior to being certified as a candidate.
- f. The candidate shall not have been convicted of or have pled guilty or have pled no defense to a felony under the laws of the United States of America or of any state, territory or possession thereof unless such person has received a pardon.
- g. The candidate must certify that if elected Principal Chief, said candidate shall resolve all conflicting interests and that said candidate will automatically be disqualified in the event that any false or misleading information or statements are made in filing for this office.
- h. No person shall be a candidate for an elected office who is an employee of the Cherokee Nation of Oklahoma or covered under Legislative Act 5-76.

Deputy Principal Chief:

The qualifications for the Office of the Deputy Principal Chief shall be the same as for the Office of Principal Chief.

Council:

The qualifications for the Elective Office of the Legislative Branch (Council) of the Cherokee Nation of Oklahoma shall be according to the Constitution, Article IX, Section 2 and the following qualifications and/or requirements approved by the Council.

- a. The candidate for Council shall be a citizen of the Cherokee Nation of Oklahoma in accordance with Article III.
- b. The candidate shall have been born within boundaries of the United States of America, its territories or possessions.
- c. The candidate shall have obtained the age of twenty-five (25) years of age at the time of the election.

- d. The candidate shall be a member by blood of the Cherokee Nation of Oklahoma.
- e. The candidate must file a certificate of degree of Indian blood from the Bureau of Indian Affairs prior to being certified as a candidate.
- f. The candidate shall not have been convicted of or have pled guilty or have pled no defense to a felony charge under the laws of the United States of America or of any state, territory or possession thereof unless such person has received a pardon.
- g. The candidate must certify that if elected to the Council, said candidate shall resolve all conflicting interests and that said candidate will automatically be disqualified in the event that any false or misleading information or statements are made in filing for this office.
- h. No person shall be a candidate for an elected office who is an employee of the Cherokee Nation of Oklahoma or covered under Legislative Act 5-76.

18. FILING FEE

A filing fee shall be charged each candidate filing for an elected office of the Cherokee Nation of Oklahoma. Such fees are to be filed and paid to the Tribal Election Committee, Cherokee Tribal Office, Tahlequah, Oklahoma. The fees shall be as follows:

Office of Principal Chief	\$500
Office of Deputy Principal Chief	\$350
Office of the Council	\$100

19. DEADLINE FOR FILING

The deadline for filing for an elected office of the Cherokee Nation of Oklahoma shall be publicized by the Tribal Election Committee. Any candidate who wishes to withdraw from the election shall have the opportunity to do so by providing a formal written notice to the Tribal Election Committee five working days after the deadline for filing. No refund of filing fee shall be permitted. The filing date shall be the fourth Monday of March through the second Friday of April of the election year.

20. OFFICIAL ELECTION DATES

The following dates are the official election dates pertaining to the election of the Cherokee Nation of Oklahoma.

a. Registration of Voters

Cutoff date for registration to vote shall be the first working day of March of the election year.

b. Filing of Candidates

Candidates may file for office from the fourth Monday of March through the second Friday of April of the election year.

c. General Election

The general election for Tribal Offices shall be the third Saturday in June of the election year.

d. Run-Off Election

The run-off election shall be the third Saturday in July of the election year.

e. Swearing in the Elected Officials

The swearing in of the Tribal Elected Officials, i.e., Principal Chief, Deputy Principal Chief, and Council shall be August 14 of the election year.

ABSENTEE VOTING

SECTION II

1. APPLICATION FOR ABSENTEE BALLOT

Absentee voting shall be allowed upon written request by the registered voter of the Cherokee Nation of Oklahoma. Such request shall be made to the Tribal Election Committee of the Cherokee Nation of Oklahoma.

2. ABSENTEE VOTING

A registered voter of the Cherokee Nation of Oklahoma who swears or affirms that he/she will be unable to vote in person may make a written request to the Chairman of the Tribal Election Committee for an absentee ballot. The request must contain the following information.

REQUEST FOR ABSENTEE BALLOT

Name: Date of Birth: _____

Address: _____

Voter Registration No: _____

and

Dawes Commission Roll No: _____

Signature: _____

3. REQUEST TIME

a. Requests for absentee ballots by mail shall be accepted from the third Monday of April until the third Friday in May of the election year. Said ballots shall be returned to the person requesting the ballot beginning the third Thursday of May to the first Friday in June of the election year. Registered voters may make their request in person at the Tribal Election Committee's Office at the Tribal Office in Tahlequah, Oklahoma, until 4:30 p.m. on the Wednesday preceeding the general election.

b. In the event of a run-off all persons who previously received an absentee ballot shall be provided a ballot.

4. ABSENTEE BALLOT

Absentee ballots shall be identical to the regular ballots used in poll voting but shall be stamped Absentee Ballot and the date of issuance shown thereon.

5. TRANSMITTAL OF BALLOT TO VOTER

When such application is received by the Tribal Election Committee, it shall be the duty of the Tribal Election Committee to verify the registration of said voter and to transmit ballot which said voter requested after verification of the voter's registration. A record shall be made of all absentee ballots issued, name, date of birth, voter's registration number, date of issuance and address of voter to whom it was issued.

6. MATERIAL TO ACCOMPANY BALLOTS

Said ballots must be accompanied by:

- a. A plain opaque envelope in which voted ballots must be placed by the voter.
- b. An envelope bearing an affidavit stating that the voter is qualified to vote, that he has personally marked the ballots, and has not exhibited the marked ballot to any other person.
- c. A return envelope addressed to the Tribal Election Committee.

7. RETURN OF BALLOTS

A voter shall be required to mark his ballot in ink; seal the ballots in the opaque envelope; fill out completely and sign the affidavit, seal the plain opaque envelope inside the envelope bearing the affidavit and return both envelopes, sealed inside the return envelope, by United States mail to the Tribal Election Committee or as otherwise provided in Section II, Item 11.

8. HANDLING OF RETURNED ABSENTEE BALLOTS

Ballots must be marked, sealed in inner envelope and mailed in pre-addressed outer envelope so as to reach the Tribal Election Committee. Any ballot received at the Tribal Election Committee's post office box in Tahlequah, Oklahoma, prior to close of business on election day shall be valid. Upon receipt of the absentee ballot by the Tahlequah Post Office it shall be placed in the absentee ballot boxes designated and placed in the Post Office for said ballots. The ballot boxes shall be secured with three locks. The keys to the said ballot boxes will be kept in a safe deposit box at

Liberty State Bank until election day. At such day the keys will be obtained by the designated persons of the Tribal Election Committee and the Superintendent of the Tahlequah (BIA) Agency. The Superintendent of the Tahlequah Agency or his designee shall keep the keys to the safe deposit box until election day. Three names will be designated to sign the signature card for the safe deposit box of which one will be the superintendent of the Tahlequah Agency. The Tribal Election Committee shall designate two members of the Committee to sign the card plus an alternate in case someone is absent.

9. ABSENTEE COUNTERS

The Tribal Election Committee shall submit names for absentee counters to the Tribal Council at the regular Council Meeting in April preceding the election. The Council shall approve or disapprove the names presented.

10. COUNTING PROCEDURES

At 1:00 p.m. or after on the day of the election, said absentee counters shall meet to count absentee ballots in the manner hereafter prescribed. The Superintendent of the Tahlequah BIA Agency or his designee shall be present at all times during the counting of the ballots.

- a. The ballot box containing the properly executed envelopes bearing affidavits shall be opened and said envelopes bearing affidavits removed.
- b. Examination of affidavits will be on the day of the election by the Tribal Election Committee and the Tahlequah BIA Superintendent Agency or his designee. Any ballots rejected due to error in affidavit shall be attached to affidavit without opening and shall be subject to judicial review before discarding.
- c. The plain opaque envelopes shall be placed in a ballot box locked with three locks.
- d. The ballot box shall be shaken to mix the plain opaque envelopes, after which said box shall be opened, the envelopes removed and the ballots counted according to law.

11. ABSENTEE VOTING IN PERSON

There will be no designated polling place for absentee ballot voting in person. The voter who is voting an absentee ballot must comply with all the requirements of absentee voting. Absentee voting in person will be allowed at any polling place provided the person who is voting an absentee ballot is on the list of absentee voters prepared by the Tribal Election Committee and the voter can provide proper identification.

12. LIST OF ABSENTEE VOTERS

The Tribal Election Committee shall compile and provide a list of all voters who requested an absentee ballot to each polling place together with other election materials and equipment.

13. CREDITING OF VOTERS

On the Monday after election day, the Chairman of the Tribal Election Committee shall cause each voter who cast an absentee ballot to be credited with voting in said election on his registration form in the appropriate registry.

14. RETENTION OF MATERIALS

All materials used for procuring and casting an absentee ballot shall remain under the control of the Tahlequah (BIA) Agency Superintendent for a period of one (1) year after the day of the election.

15. ABSENTEE BALLOT REJECTION

In the event a voters application for an absentee ballot is rejected for any reason, the Chairman of the Tribal Election Committee shall immediately notify said voter in writing of the rejection and the reason therefore.

16. INSTRUCTION

The Tribal Election Committee shall prescribe instructions for voting by absentee ballots. A copy of said instructions shall be mailed to each voter requesting an absentee ballot.

17. ABSENTEE WATCHERS

The selection of the absentee watchers shall be by random drawing of five (5) names from the balance of names submitted by the candidates in Section I, Item 9, until five (5) names have been drawn. No candidate for any elected office in the Cherokee Nation shall be a watcher.