



# Council of the Cherokee Nation

Cherokee Nation Tribal  
Council  
17763 S. Muskogee Ave.  
Tahlequah, OK 74464

## Legislation Details (With Text)

**File #:** 22-028      **Version:** 4      **Name:** CN ELECTION CODE  
**Type:** Legislative Act      **Status:** Passed  
**File created:** 3/16/2022      **In control:** TRIBAL COUNCIL  
**On agenda:** 3/31/2022      **Final action:** 5/23/2022  
**Enactment date:** 5/16/2022      **Enactment #:** LA-14-22  
**Title:** AN ACT REVISING AND RESTATING TITLE 26 (“ELECTIONS”) OF THE CHEROKEE NATION CODE ANNOTATED  
**Sponsors:**  
**Indexes:** Election, Election Law, Election Law Reform  
**Code sections:** Title 26 - Elections  
**Attachments:** 1. LA-14-22.PDF

Date	Ver.	Action By	Action	Result
5/23/2022	1	OFFICE OF THE CHIEF	Signed	
5/16/2022	4	TRIBAL COUNCIL	Approved	Pass
4/28/2022	4	RULES COMMITTEE	Special Action	Fail
4/28/2022	4	RULES COMMITTEE	Approved and Forwarded to Council	Pass
3/31/2022	2	RULES COMMITTEE	Tabled	Pass

### AN ACT REVISING AND RESTATING TITLE 26 (“ELECTIONS”) OF THE CHEROKEE NATION CODE ANNOTATED

BE IT ENACTED BY THE CHEROKEE NATION:

#### Section 1. Title and Codification

This Act shall be known as the “Cherokee Nation Election Code” and shall be codified as Title 26 of the Cherokee Nation Code Annotated.

#### Section 2. Findings

The Council of the Cherokee Nation finds that an emergency exists within the Cherokee Nation and that the existing Title 26 entitled "Elections" has numerous scrivener’s errors and needs substantive changes to enhance the electoral process and protect the voting rights of Citizens of the Cherokee Nation.

### **Section 3. Purpose**

The purpose of this Act is to revise and restate the existing Title 26 entitled "Elections" in its entirety to correct numerous scrivener's errors and to make substantive changes to enhance the electoral process and protect the voting rights of Citizens of the Cherokee Nation.

### **Section 4. Legislative History**

Article VI, Section 7 of the Cherokee Nation Constitution states that the Council shall have the power to establish laws which it shall deem necessary and proper for the good of the Nation. The Council has previously legislated, adopted and revised Title 26 entitled "Elections" as follows:

L.A. 9-85 Eff. July 13, 1985

L.A. 35-89 Eff. Sept. 9 1989

L.A. 6-91 Eff. March 9, 1991

L.A. 2-87 Eff. Feb. 14, 1987

L.A. 12-90 Eff. Nov. 13, 1990

L.A. 5-87 Eff. Feb. 14, 1987

L.A. 8-87 Eff. Feb. 26, 1987

L.A. 11-87 Eff. March 14, 1987

L.A. 6-87 Eff. Feb. 14, 1987

L.A. 9-87 Eff. Feb. 26, 1987

L.A. 14-87 Eff. March 14, 1987

L.A. 7-87 Eff. Feb. 14, 1987

LA. 12-87 Eff. May 11, 1987

L.A. 23-87 Eff. June 11, 1987

L.A. 3-87 Eff. February 14, 1987

L.A. 4-87 Eff. Feb. 14, 1987

L.A. 7-97 Eff. May 12, 1997

L.A. 39-05 Eff. Nov. 14, 2005

L.A. 06-10 Eff. Feb. 16, 2010

L.A. 46-12 Eff. Dec. 10, 2012

L.A. 04-14 Eff. Feb. 10, 2014

L.A. 26-14 Eff. Sept. 15, 2014

L.A. 12-16 Eff. May 18, 2016

L.A. 22-20 Eff. Oct. 13, 2020

L.A. 23-20 Eff. Oct. 13, 2020

L.A. 24-20 Eff. Oct. 13, 2020

L.A. 48-21 Eff. Nov. 19, 2021

## **Section 5. Substantive Provisions**

The existing Title 26 entitled "Elections" is hereby revised as follows, restated in its entirety and enacted as follows:

**TITLE 26**  
**ELECTIONS**  
**CHAPTER 1**  
**General Provisions**

### **§ 1. Purpose.**

This Title is adopted for the purpose of conducting all Cherokee Nation elections, for Principal Chief, Deputy Principal Chief, Council, Constitutional Amendments, initiatives and referenda of the Cherokee Nation.

### **§ 2. Authority.**

This Title is enacted pursuant to Article IX, Section 1, of the Constitution of the Cherokee Nation ruled effective by the Cherokee Nation Supreme Court on July 26, 2003.

§ 3. Definitions.

For purposes of this Title, the following terms shall be defined as follows (see also § 41):

1. **At-Large Registered Voter.** “At-Large Registered Voter” means a person who is a Citizen of the Cherokee Nation, under the age of twenty-five (25) residing outside of the jurisdictional boundaries of the Cherokee Nation, who has not previously registered to vote as provided herein, and fails to choose a single district upon the time of their first registration; and Citizens age twenty-five (25) and older-residing outside of the boundaries not registered to vote as provided herein at the time of the first election to fill At-Large Council seats pursuant to Article VI § 3 of the Cherokee Nation Constitution.
2. **Ballot Box.** “Ballot Box” means the locked box or Electronic Counting Device in which ballots are inserted when votes are cast or any transfer case used for ballots inserted in an Electronic Counting Device.
3. **Candidate.** “Candidate” means a person who has raised funds and/or accepted in-kind Contributions in excess of One Thousand Dollars (\$1,000.00); or, a person who has filed and is qualified to run in an election to hold elective office in the Cherokee Nation, in accordance with Chapter 4 §§31-34 of this Title and in accordance with the Cherokee Nation Constitution.
4. **Citizen of the Cherokee Nation.** "Citizen of the Cherokee Nation" or “Citizen” means a person enrolled as a Citizen of the Cherokee Nation pursuant to 11 C.N.C.A. §§ 11-14.
5. **Computer Technology.** "Computer Technology" shall include electronic hardware and software.
6. **Constitutional Amendment.** “Constitutional Amendment” means Constitutional amendment(s) proposed by the Cherokee Nation Council that are submitted to the Registered Voters of the Cherokee Nation for the purposes of voting on said amendment(s) at a special or General Election or Special Election pursuant to Article XV, Section 2 of the Cherokee Nation Constitution and/or Article XV, Section 3 which gives the right of the people to propose Constitutional Amendments.
7. **Council.** "Council" means the Council of the Cherokee Nation.
8. **Council Member.** "Council Member" means a member of the Council of the Cherokee Nation.
9. **Counting Device.** "Counting Device" means an electronic device used for the purpose of accepting and counting ballots and for all other legitimate purposes related to the conduct of an election.
10. **Criminal Violation.** “Criminal Violation” means a violation of: (i) any provision of this Title identified herein as a crime; or (ii) any provision of the Penal Code of the Cherokee Nation.

- 11. Election Commission.** "Election Commission" means the Cherokee Nation Election Commission created pursuant to Article IX, Section 1 of the Cherokee Nation Constitution.
- 12. Electoral Fraud or Election Fraud.** "Electoral Fraud" or "Election Fraud" means any illegal interference with the process of an election, including but not limited to:
- a. Any violation of the Penal Code of the Cherokee Nation, including Chapter 11A;
  - b. In-person voter fraud (voter impersonation/attempting to vote for any person other than yourself);
  - c. Fraudulent activity involving absentee ballots and/or absentee ballot requests, including, but not limited to, doctoring or changing absentee ballot requests;
  - d. Ballot stuffing (casting illegal votes or submitting more than one ballot per voter);
  - e. Voting under the name of a deceased person;
  - f. Ineligible voting (casting a ballot by a person not eligible to vote);
  - g. Voter suppression (intentional acts to lower or suppress the number of voters who might otherwise vote in a particular election);
  - h. Voter registration fraud (fraudulently filling out and/or submitting a voter registration and/or request for any person other than yourself without their consent, real or fictional, or forging his or her signature on the registration and/or request).
  - i. Vote-buying (any agreement between a voter and another exchanging anything for a person's vote); and/or
  - j. Tampering or manipulation of ballots and/or returns.
- 13. Election Outcome.** "Election Outcome" means the determination of the Candidate winning an election for office, and/or the determination of the passage or failure of an Initiative Petition or Referendum Petition.
- 14. Election Results.** "Election Results" means the number of votes in favor of each Candidate for office, and/or the number of votes in favor of and opposed to each Constitutional Amendment or Initiative Petition or Referendum Petition.
- 15. Election Commission Office.** "Election Commission Office" means the Cherokee Nation Election Commission Office established under § 14 of this Title and when Election Commission Office is in any of the following sections, it is referencing the Election Office.
- 16. Elective Office.** "Elective Office" means the office of Principal Chief, Deputy Principal Chief, and/or Tribal Council.
- 17. Election Period.** "Election Period" shall include the [six months prior to and including the Primary](#)

Election and the Runoff Election through the completion of any applicable challenge, court requirement of a new election and/or certification proceedings.

**18. General Election.** "General Election" means a regular election for offices of the Principal Chief and Deputy Principal Chief and for seats on the Cherokee Nation Council as provided by law on a date certain, provided that elections for the following purposes may also occur during a General Election: (i) consideration of Referendum Petitions and Initiative Petitions pursuant to Article XV, Sections 3 and 4 of the Cherokee Nation Constitution; and/or (ii) consideration of Constitutional Amendments pursuant to Article XV, Section 2 and Section 3 of the Cherokee Nation Constitution.

**19. Independent Expenditure.** "Independent Expenditure" means an expenditure made by an individual or legal entity for a communication expressly advocating the election or defeat of a clearly identified candidate or a ballot measure that is not made in coordination with, cooperation with, consultation with, or concert with, or at the request or suggestion of, a candidate, an agent of a candidate. An independent expenditure shall not include the display of a noncommercial yard sign, lapel pin, button, bumper sticker or similar de minimis display of support or opposition to a candidate.

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**20. Indian.** "Indian" means (i) Any person who is a citizen of the Cherokee Nation; (ii) any person who a citizen or member of any other federally recognized Indian tribe, including Alaska Native entities; (iii) any person who is eligible to become a member of any federally recognized Indian tribe; and (iv) any person who would be considered an "Indian" for the purposes of federal criminal prosecution under 18 U.S.C. § 1152 and/or 18 U.S.C. § 1153.

**21. Initiative Petition.** "Initiative Petition" means a petition submitted by the Registered Voters of the Cherokee Nation for purposes of proposing any legislative measure and Constitutional Amendment pursuant to Article XV, of the Cherokee Nation Constitution.

**22. Jurisdictional Boundaries.** "Jurisdictional Boundaries" means the boundaries of the Cherokee Nation Reservation described by the patents of 1838 and 1846 diminished only by the Treaty of July 19, 1866, and the Act of March 3, 1893, which encompasses all or portions of the northeastern fourteen counties of Oklahoma.

**23. Officer.** "Officer" means the Principal Chief and/or Deputy Principal Chief.

**1. Original Enrollee.** "Original Enrollee" is as defined by 11 C.N.C.A. § 3 (L), derived only through proof of Cherokee blood based on the final rolls.

**24. Political Purposes.** "Political Purposes" means actions or activities designed to influence the success or defeat of a candidate or elective office or any ballot measure.

**25. Precinct.** "Precinct" shall mean an official voting place within a district, as designated by the Election

Commission.

26. **Precinct Board.** "Precinct Board" means a Cherokee Nation Election Precinct Board for each Precinct, appointed by the Election Commission and exercising the duties set forth in § 12(C) of this Title.
27. **Primary Election.** "Primary Election" means the initial submission of Candidates or measures to a vote of the people during a General Election or a Special Election, prior to a Runoff Election.
28. **Principal Chief.** "Principal Chief" means the Principal Chief of the Cherokee Nation.
29. **Referendum Petition.** "Referendum Petition" means a petition submitted by Registered voters of the Cherokee Nation for purposes of submitting to a vote of the people all or a portion of a Council enactment pursuant to the provisions of Article XV, of the Cherokee Nation Constitution.
30. **Registered Voter.** "Registered Voter" means a Citizen of the Cherokee Nation who has registered to vote pursuant to the Cherokee Nation Constitution and this Title.
31. **Registration.** "Registration" means the act of registering to vote by a Citizen of the Cherokee Nation in a district where the person resides, or in the case of a Citizen of the Cherokee Nation residing outside of the jurisdictional boundaries of the Cherokee Nation, the act of registering as an At-Large Registered Voter or in the district of choice, in accordance with Article VI, Section 3 of the Cherokee Nation Constitution.
32. **Re-register.** "Re-register" means the act of changing the Registration of a Citizen of the Cherokee Nation as a result of a change in residency for purposes of changing their Voting District or for other legitimate purposes.
33. **Resident Registered Voter.** "Resident Registered Voter" means a Citizen of the Cherokee Nation whose residence is inside of the jurisdictional boundaries of the Cherokee Nation at the time he or she registers to vote as provided herein.
34. **Runoff Election.** "Runoff Election" means the election of one of the two candidates for an Elective Office who had the highest number of votes at the Primary Election. A Runoff Election may occur during a General Election or Special Election.
35. **Signature.** "Signature" or "Sign" means a natural person's mark or written name in a distinctive way as a form of identification in authorizing a document or other writing or a person's mark with two one witnesses.
36. **Special Election.** "Special Election" means an election specially set on a date other than the date certain established for General Elections for one or more of the following purposes: (i) consideration of Referendum Petition and/or Initiative Petition when a Special Election is required by the Council or Principal Chief pursuant to Article XV, § 4 of the Cherokee Nation Constitution; (ii) consideration of Constitutional Amendments when a Special Election is required by the Council pursuant to Article XV, §§ 2 and/or 4 of the Cherokee Nation Constitution; (iii) election authorized by the Council to fill Council vacancies pursuant to Article VI, § 13 of the Cherokee Nation Constitution; or (iv) election of the Principal Chief pursuant to Article VII, § 5 of the Cherokee Nation Constitution.

- 37. Voters List.** “Voters List” means the names, district, and precinct of each Registered Voter who is eligible to vote in an upcoming election as provided in §23 of this Title of this Title and may be subject to the exclusion of certain personal voter information as provided in §23(C) of this Title.
- 38. Voting District or District.** “Voting District” or “District” as used herein means any one of the representative districts within the boundaries of the Cherokee Nation established by the Council pursuant to Article VI § 3 of the Cherokee Nation Constitution.

#### § 4. Tenure of Elected Officials.

Tenure of the Principal Chief, Deputy Principal Chief, and Council Mmembers shall be a term of four (4) years pursuant to Article VI, Section 3 and Article VII, Section 1 of the Constitution, except for vacancies that are filled in accordance with Article VI, Section 13 and Article VII, Section 5 of the Cherokee Nation Constitution.

#### § 5 to 10. Reserved.

## CHAPTER 2

### Supervisory Bodies and Election Commission Office

#### § 11. Cherokee Nation Election Commission.

Election Commission: Establishment and Appointment. There shall be a Cherokee Nation Election Commission. The Election Commission shall be composed of five (5) members, two (2) appointed by the Council, two (2) appointed by the Principal Chief and one (1) selected by those four appointees and this fifth member shall be confirmed by the Principal Chief and the Council. The Election Commission shall have the sole responsibility and explicit authority for the conduct of all Cherokee Nation elections, including activities described in subsection D of this section. Pursuant to the Constitution of the Cherokee Nation, Article IX, § 1, the Election Commission shall be an autonomous and permanent entity, which shall be an independent commission in the performance of its statutory authority to govern the conduct of all elections and in the performance of such authority shall not be subject to direction, supervision, intervention or interference or of any other type of influence by the Executive Office or the Cherokee Nation Council. The Election Commission shall be subject to the Constitution of the Cherokee Nation and laws of the Cherokee Nation pursuant to its Constitutional independent and autonomous status. The Election Commission shall develop Ppolicies and Pp procedures concerning personnel, contracting and meeting requirements which shall be exclusive and controlling as to the Election Commission. Such policies must include provisions relating to Cherokee



preference in contracting, hiring and promotion. Such policies and procedures shall be implemented within ninety (90) days of the passage of this Act.

A. Term. Each Election Commissioner shall serve a term as set forth below.

1. Staggered Terms. Beginning with the appointment of an Election Commissioner in October 2011, the Tribal Council shall appoint one (1) member to a four (4) year term and one (1) member to a six (6) year term. The Principal Chief shall appoint one (1) member for a four (4) year term and one (1) member for a six (6) year term. The members shall then select a person to be the fifth member of the Election Commission for a four (4) year term to be confirmed by the Principal Chief and Tribal Council. Thereafter all appointments shall be for a four (4) year term.

2. Holdover Clause. Members of the Election Commission shall remain in office until their successor is duly appointed and confirmed.

3. Vacancies. In the case of death, removal or resignation of a Commissioner the Branch of Government which made the appointment shall select the replacement, who shall serve the remainder of the term.

B. Qualifications. No elected official of the Cherokee Nation, no person who is related within the third degree by either consanguinity or affinity to an elected official, no employee of the Cherokee Nation, including any corporation, agency or other entity which is at least fifty-one percent (51%) owned by the Cherokee Nation, no person who has been convicted of a felony, no person who has ever plead no contest or guilty to a felony without said matter being expunged from court records, or convicted of a crime in any Tribal Court of any Federally recognized Indian Tribe that would be considered a Felony in State or Federal Court shall serve on the Election Commission. No Candidate or regular employee of a Candidate for office or person who is related within the third degree by either consanguinity or affinity to a Candidate for office shall serve on the Election Commission.

C. Duties. The Election Commission shall have the responsibility of conducting all General Elections and Special Elections. The Election Commission shall also engage in the following activities in the performance of its responsibilities:

1. Elect a **C**chairperson, **V**ice-**C**chairperson/**P**arliamentarian, and a **S**ecretary/**T**reasurer from its own

membership;

2. Publish a schedule for its regular meetings, establish an agenda for each meeting in accordance with Robert's Rules of Order, approve and maintain correct and accurate minutes of its deliberations, and Rules and Regulations of the Election Commission which shall be regularly posted on the Cherokee Nation website;
3. Hire independent legal counsel and/or hire independent investigator as needed, who shall not be employed in any other manner by the Cherokee Nation or any agency or enterprise of the Cherokee Nation;
4. Use available technology, including without limitation facsimile machines and computer technology; provided that computer technology may include any necessary accompanying consultant services related thereto, in the conduct of elections; and provided further that selection of computer hardware, computer software and computer consultant services and related costs shall be approved by the Principal Chief and the Council;
5. Oversee the registration of voters, provided that nothing herein shall affect the validity of registration of voters during any period between expiration of the term of one Election Commission and the seating of the next Election Commission;
6. Maintain current voter lists and shall use all efforts to diligently use certified sources; such as 911, County Treasurer's and the County Assessor's websites, Cherokee Nation Registrar's office and the Cherokee Nation tag office to update said list with correct address and phone numbers where the Election Commission does not currently have an accurate address;
7. Develop Rules and Regulations necessary to conduct Cherokee Nation elections, provided that such Rules and Regulations shall be published and transmitted to the Council no later than ninety (90) days before the Election Period first day of filing for the General Election for which said Rules and Regulations are intended to apply, unless a shorter time is prescribed by the Council for purposes of a Special Election; Said rules are to be published in the *Cherokee Phoenix* and on the official web site of the Cherokee Nation as soon as practicable after transmittal to the Council. The Election Commission shall amend their rules, regulations and forms upon passage of, or as soon as practicable, all legislation adopted by the Council or the Cherokee Nation applicable to and/or related to Cherokee Nation elections, including, but not limited to, legislation amending the existing provisions of Title 26 and/or creating new election related provisions with the Code.

8. Approve the number and location of Precincts at least forty-five (45) days in advance of the General Election, and said locations shall be published in the *Cherokee Phoenix* and shall be posted on the official web site of the Cherokee Nation after their selection, provided that in the event of unforeseen circumstances such as fire, natural disasters or other such events, the location may be changed by the Commission with reasonable and practicable public notice to Cherokee Citizens;
9. Provide the various Precinct Board Officials and temporary election workers with the proper instruction and training for performing their duties. All Precinct Board Officials are required to attend the mandatory training to work in any General or Special Election;
10. Determine the eligibility of all Candidates for Elective Office pursuant to § 36(C) of this Title and have the first authority to consider challenges to Candidate eligibility;
11. Conduct all General Election or Special Election recounts pursuant to § 93 of this Title;
12. Conduct all General Elections and Special Elections by secret ballot, provided that elections by the Council to fill vacant Council seats shall be by public roll call vote;
13. Prepare and order the official ballot or ballots prior to the applicable General Election or Special Election;
14. Issue ballots and all support materials to hold an General Election or Special Election;
15. Be responsible for the storage and safekeeping of all election ballots and related documents after the close of the General Election or Special Election pursuant to procedures established by the Election Commission;
16. Engage in any other activities for the performance of its responsibilities as required by the provisions of this Title;
17. Provide written reports and recommendations on not less than a monthly basis to the Council and Principal Chief through the Rules Committee on activities of the Election Commission related to the conduct of elections. The Chairperson or his/her designee shall submit give said report no less than on a

monthly basis and report in person through the Rules Committee on a quarterly basis or as requested by the Speaker of the Council or Chair of the Rules Committee; and

18. Audit all financial reports and disclosures required by this Title, and to report any Criminal Violations of this Title to the Cherokee Nation Attorney General for prosecution as applicable. Further the Election Commission has the authority to assess any penalties or other sanctions authorized by this Title. Any accusations of Criminal Violations of this Title shall be reported to the Cherokee Nation Marshal for investigation and/or the Cherokee Nation Attorney General for prosecution as applicable. Should the Cherokee Nation Attorney General prosecute any Criminal Violation(s), a report to the Cherokee Nation Election Commission will be made for possible assessment of penalties and/or disqualification under procedures found at § 38 of this Title.

- D. Meetings. The Election Commission shall conduct business in open meetings at the Election Commission Office or other public location designated by the Election Commission, pursuant to Ppolicies and Pprocedures developed by the Election Commission, provided that the Election Commission may attend work sessions in which the duties of the Election Commission are performed, such as reviewing Candidate eligibility packets, financial filings, locating and securing Precincts, registering voters, assisting in day-to-day operations of the Election Commission Office, preparing election supplies and other miscellaneous duties and may engage in work sessions where no policy decisions were required by a vote of the Election Commission that any action requiring the vote of the body shall be referred to the Election Commission in an open meeting.
- E. Compensation. The Election Commission members shall receive stipends or compensation for their services in accordance with their itemized budget approved by the Council.
- F. Removal of Election Commission Members. An Election Commission member may be removed as a member of the Election Commission for committing any of the following acts:
1. Wwillful neglect of the duties prescribed in this Title;
  2. Ccorruption in office;
  3. Aacting in his or her official capacity while under the influence of alcohol or un-prescribed narcotics;
  4. Iincompetency, misfeasance, or malfeasance of office;
  5. Ffor any conviction involving moral turpitude committed while in office;
  6. Ffor campaigning for any Candidate or measure or who otherwise improperly interferes with or attempts to improperly interfere with the conduct of any election;
  7. Ccriminal conviction for violating any law of the Cherokee Nation that would be a felony in the State of Oklahoma; or
  8. Ccriminal felony conviction for violating any state or federal law.

A petition for removal of an Election Commissioner may be brought by a majority vote of the Council, a majority vote of the Election Commission or by the Principal Chief. An Election Commissioner accused of violating the provisions of this Title shall be given notice of the hearing and charges and an opportunity to respond to the charges. The hearing shall be before the Cherokee Nation Supreme Court in accordance with its Rules and Procedures. If the Cherokee Nation Supreme Court finds that a member of the Election

Commission has committed an act that would warrant removal that person shall be removed as a member of the Election Commission.

## § 12. Precinct Boards.

- A. Establishment of Precinct Boards. There shall be a Precinct Board consisting of not more than six (6) twelve (12) people but, adequate in number to carry out the provision of this Title for each Precinct as defined in § 3 of this Title, and for any other places specified by the Election Commission. Each Precinct Board shall be selected appointed by the Election Commission. The responsibilities of each Precinct Board Official shall be established by the Election Commission, and may include titles such as Inspector, Judge, Clerk and any others position and/or titles deemed necessary by the Election Commissioners.
- B. Qualifications. No Elected Official of the Cherokee Nation, no person who is related within the first degree by either consanguinity or affinity to an Elected Official, and no employee of the Cherokee Nation, including any corporation, agency or other entity which is at least fifty-one percent (51%) owned by the Cherokee Nation, shall serve on a Precinct Board. No Candidate or regular employee of a Candidate for Elective Office or person who is related within the first degree by either consanguinity or affinity to a Candidate for Elective Office shall serve on a Precinct Board.
- C. Duties. Each Precinct Board shall attend a mandatory training to be held by the Election Commission prior to the General Election or Special Election. The Precinct Board shall oversee the conduct of General Elections and Special Elections at its assigned Precinct within a district, including the following specific duties:
1. Ensure that the identity of each person attempting to vote is established either through personal knowledge, or photo ID or by viewing some current form of government issued ID card or the voter's ID card issued by the Cherokee Nation Election Commission or other methods of identification;
  2. Ensure that the name of each person attempting to vote is on the Precinct Voters Signature Book at the particular Precinct where each person is attempting to vote;
  3. Ensure that the voter countersigns his name or makes his mark on the Precinct Voters Signature Book of persons voting, provided that the mark of a voter who makes his or her mark on the register shall be witnessed by the Precinct Inspector and one other Precinct Official who shall write his or her initials beside the mark;

4. Ensure that only one ballot is cast by the voter at the Precinct;
5. Make a final decision for the Election Commission regarding questions of eligibility of a person to vote pursuant to the procedure for [Challenged Ballots](#) set forth in § 64 of this Title;
6. Ensure that the Ballot Boxes are locked at all times except when the ballots are being counted; or if Counting Devices are used, to ensure that said devices are not subject to tampering and that [the Ballot Transfer Cases](#) are secured;
7. Count the ballots cast and make a tally thereof, provided that counting and tallying may be made manually or by an [Electronic Counting Device](#) as directed by the Election Commission;
8. Make Precinct [Certified Election Returns](#), to include the number of votes cast in that Precinct, and a vote tally, [the number of Challenged Ballots cast](#) and post a copy thereof on the exterior of the Precinct; or, [The number of votes cast at precincts will be posted in public view before ballots are transferred to the Election Commission to conduct an official count.](#) If there is a machine malfunction, ballots may be secured, brought to the Election Commission Office and [an Election Night Recount shall be conducted by the Election Commission on an Electronic Counting Device](#) or manually counted before the Election Commission and results shall be posted [on the Election Commission website Office and within public view at the Election Commission office.](#)
9. Preserve mutilated ballots;
10. Return all of the [Ballot Transfer Cases](#) after counting and lock, seal, and mark the [Ballot Transfer Cases](#) with the name of the Precinct and date of election;
11. Return the unused ballots, spoiled and mutilated ballot envelope, locked and sealed [inside the Ballot Transfer Cases](#) to the Election Commission Office immediately following the election; and,
12. Report conduct that appears to violate § 52 of this Title to the Election Commission. Such reports shall be based on actual observations or information from another person to the Precinct Board. The Election Commission shall document and report any such conduct and/or incidents to the Cherokee Nation Marshal Service or other appropriate authorities.

D. Presence During Voting Hours. No member of a Precinct Board shall leave the Precinct during voting hours [except with authorization by the Election Commission](#). If it becomes necessary for any member of the Precinct Board to leave the Precinct or premises [without authorization](#), said member cannot return to the Precinct.

E. Compensation. The members of the Precinct Board shall receive such stipends or compensation for his or her services as prescribed by the Election Commission.

### **§ 13. Oath.**

Each Election Commission member, each member of the Election Commission Office staff and each Precinct Board member, before entering upon the duties of his or her respective positions, shall take and subscribe to the following oath or affirmation:

"I do solemnly swear, or affirm that I will faithfully execute the duties of the Election Commission [or Precinct Board] of the Cherokee Nation in a responsible, impartial and unbiased manner, and will, to the best of my ability, preserve, protect and defend the Constitutions of the Cherokee Nation, and the United States of America. I swear or affirm further, that I will do everything within my power to promote the culture, heritage and traditions of the Cherokee Nation."

### **§ 14. Election Commission Office.**

A. Permanent Office. The Election Commission Office shall be maintained on a full-time basis with a permanent staff and/or temporary staff as necessary to conduct every election. The site of the Election Commission Office shall be at a location apart from the Cherokee Nation [W. W. Keeler Tribal Complex Building](#) and shall maintain strong security measures.

B. Staff. All Election Commission staff, excluding members of the Election Commission, shall be deemed employees of the Election Commission and shall be interviewed and hired by the Election Commission, and shall be under the direct supervision of the Election Commission, all of which are subject to [Pp](#) olicies and [P](#)rocedures created by the Election Commission, and will receive the same benefits as Cherokee Nation employees by way of an MOU between the Election Commission and the Cherokee Nation. [All staff except for the Administrator and Director of Election Services shall be under the direct supervision of the Administrator.](#)

- C. Director of Election Services Commission Office. The Director of the Election Services Commission Office shall be hired independently by the Election Commission and shall be experienced in conducting elections and the use of modern, reliable technology, and secure voting. The Director of Election Services shall be under the direct supervision of the Election Commission.
- D. Administrator. The Administrator of the Election Commission Office shall be a Citizen of the Cherokee Nation who is independently hired by the Election Commission using objective standards developed by the Election Commission. The Administrator shall be under the direct supervision of the Election Commission.
- E. Other Staff Members. The Election Commission shall employ all other employees as determined necessary by the Election Commission to conduct their constitutionally required duties.

#### **§ 15. Record Retention**

The Election Commission Office, at the direction of the Election Commission, shall develop policies and procedures with respect to record retention. Said policies shall:

- A. Permit the destruction of paper records relating to the conduct of an election not less than one (1) year after the disposition of a final appeal arising out of any election held under this Title, including but not limited to ballots, provided that original election certification records shall be maintained for a period of at least five (5) years after said disposition of a final appeal and may be maintained longer at the direction of the Election Commission.
- B. Require said destruction of paper records to occur only after public notice of said destruction is given by the Election Commission at a regular or special Election Commission meeting.

**§16 to 20. Reserved.**

### **CHAPTER 3**



## Qualifications and Registration of Voters

### § 21. Eligibility to Vote.

A. Basic Requirements. Subject to the limitations contained herein, any person who meets the following requirements shall be entitled to vote in any General Election or Special Election held by the Cherokee Nation:

1. The person shall be a Citizen of the Cherokee Nation, eighteen (18) years of age or older as of the date of any General Election or Special Election;

2. The person shall be registered to vote no later than the last business day in March of the election year. Provided that a Citizen of the Cherokee Nation that is seventeen (17) years old and can show that their birth date is on or prior to the date of the primary election shall be allowed to register to vote. (except for Original Enrollees as provided in this Chapter.);

3. If said person is a Resident Registered Voter, as defined herein, he/she shall [register for the district in which he/she resides](#) affiliate with the district in which he or she resides.

4. If said person is an At-Large Resident Voter, as defined herein, he/she shall [register At-Large, unless he/she elects to register in](#) be affiliated with a district pursuant to Article VI § 3 of the Cherokee Nation Constitution.

5. Any person who voted in the last [P](#)primary, [G](#)general or [S](#)special [E](#)election shall be deemed eligible to vote unless the Election Commission has notice that such person has relinquished their [C](#)citizenship with the Cherokee Nation. The Election Commission shall maintain the list of eligible voters.

B. Original Enrollees. An Original Enrollee who is not on the Voter List at a Precinct, but who appears at the Precinct with proof that he or she is an Original Enrollee and that his or her place of residence was within that district prior to the date of the election, may complete a [V](#)voter [R](#)registration [F](#)form and may be allowed to cast a ballot immediately thereafter.

C. Voting by Districts.

1. Resident Registered Voters. Every Resident Registered Voter shall be registered to vote in the district of his or her residence. A Resident Registered Voter shall have the right to vote only for the Candidate for a Council seat for the district in which the voter resides, and cannot vote for a candidate for a Council seat for any other district except as provided for in paragraph 4 of this subsection.
  
2. At-Large Registered Voters. Every At-Large Registered Voter shall be registered to vote in the At-Large District, unless said voter has elected to remain a voter in a district pursuant to Article VI, Section 3 of the Cherokee Nation Constitution. Provided, when redistricting occurs, At-Large Registered Voters who elected to remain a voter within a district pursuant to Article VI, Section 3 of the Cherokee Nation Constitution, shall be notified by regular mail notifying the voter of his/her right to choose a new district that was part of their original district. The At-Large Registered Voter shall have ninety (90) days from the date of the notice to notify the Election Commission of their choice of a new district. If, after the expiration of the ninety (90) day period, the At-Large Registered Voter fails to provide such notice, the voter shall be assigned to the appropriate district based on the Precinct chosen at the time of registration.
  
3. Re-registration for Purposes of Changing District and/or Precinct. A Resident Registered Voter who has moved to a new district, and who wishes to change Precincts within their district, shall re-register for a new district and/or Precinct on or before, but not after, the last business day in March of the election year, in order to effect a change of voting district and/or precinct for said election year; provided that the new registration form shall be delivered to the Election Commission Office on or before said day in order to be valid for said election year.
  
4. Effect of Failure to Re-register. Any Registered Voter who fails to change his or her voting district and/or Precinct by re-registering with a new district and/or a new Precinct **within the district** on or before the last business day in March of the election year must vote during the current election year for the Candidates for Council **at the Precinct** within the district in which the person was registered to vote as of said date; **provided, also, that a Registered Voter who in good faith moves to a new District after the last business day in March and becomes a bona fide resident of said District, shall be entitled to cast a Challenged Ballot in the new District of their residence, upon signing of an application for a Challenged Ballot on the form provided by the Election Commission, under penalty of perjury; and, if in proper form shall be counted by the Election Commission.**
  
5. At-Large Registered Voters who have previously chosen districts. At-Large Registered Voters who have previously selected a district within the jurisdictional boundaries of the Cherokee Nation in accordance with the Cherokee Nation Constitution (Article VI, § 3,) may select to continue to be registered to vote in a district that was subsequently part of their original district, at the time of the 2013 election.

D. Voter Address. Voters giving a Post Office Box Address or a Rural Route Address must include driving directions and/or location of residence that is sufficient to allow the Election Commission to determine their district of residence.

E. Voter Registration. Registered Voters must complete the Voter Registration Form provided by the Election Commission and must contain the Voter's handwritten signature or copy of the Voter's original signature. Forgery or unauthorized alteration to a Voter Registration Form is a crime.

## §22. Registration Process.

A. Ongoing Process. The Election Commission Office shall conduct Registration of Voters on an ongoing basis. This process shall include periodic publicity and community outreach efforts by the Election Commission Office. The Election Commission Office shall publish information promoting Voter Registration at least four (4) times annually, in the *Cherokee Phoenix* and the Cherokee Nation Election Commission web sites.

B. Cards. The Election Commission Office shall issue Voter Identification Cards to Registered Voters. Whenever possible, the card should be in a picture ID format. The card may be used as a convenient means of identification of person whose names appear on the Voters List.

## § 23. Voter Data Base; Coordination with Registrar; Preparation of List of Voters.

A. Data Base. The Cherokee Nation Election Commission Office shall establish and maintain an independent database. The Election Commission Office shall have access to information maintained by the Cherokee Nation Registrar by computer modem, including without limitation the following information: Citizenship verification, deaths, new Citizens, and address changes.

B. Lists. The Election Commission Office database shall include the Voters List which that includes the Names, District and Precinct of each Registered Voter who is eligible to vote in an upcoming General Election or Special Election. A list of such persons who have applied for Absentee Ballots shall be available. A list of Voter participation in past election shall also be available. Said Voters List may be separated into a listing of such persons who have applied for absentee ballots and those who have not applied for absentee ballots. The Election Commission shall designate those addresses on the lists that have had mail returned to the Election Commission do not appear to be the current addresses for designated voters.

C. List Information. Each list specified in subsection (B) of this section shall contain the following information for each voter listed: (i) name; (ii) last known registered address; (iii) date of birth; (iv) last known phone number; (v) social security number or other identifying number; (vi) date of citizenship enrollment; (vii) dates of voter registration and re-registration; (viii) voting district and precinct; (ix) the voter's participation in past elections; and (x) any other information deemed relevant by the Election Commission Office. Any list released pursuant to § 25 of this Title shall exclude the voter's date of birth, social security number or any other identifying number.

D. Maintenance. Each list as it existed as of a specific election date shall be maintained by the Election Commission Office for at least five (5) years following December 31 of the year the specific election occurred.

#### **§ 24. Removal of Names from the Voter Lists.**

Deceased and Relinquished and Disenrolled Persons. The Election Commission Office shall remove the names of any deceased Citizens of the Cherokee Nation and persons who have been relinquished disenrolled from the Voter List, upon receipt of satisfactory evidence of the death or relinquishment disenrollment as specified by the Cherokee Nation Registration Department.

#### **§ 25. Obtaining List; Duplication of List.**

The most recent Voter List shall be made available to all citizens of the Cherokee Nation, subject to the provisions of the Cherokee Nation Freedom of Information Act. The Voter List shall be made available on paper, computer diskette, mailing gummed labels, electronically, or any other method available. The Election Commission may charge a nominal fee to cover the costs of duplication of the Voter List, provided that the Voter List shall be subject to inspection free of charge during the business hours of the Election Commission.

#### **§ 26 through 30. Reserved.**

### **CHAPTER 4**

#### **Qualifications of and Filing by Candidates**

**§ 31. General Qualifications of Candidates for Elective Office - Generally; Certifications and Acknowledgments.**

A. General Qualifications. Each Candidate who desires to run for the Elective Cherokee Nation Office of Principal Chief, Deputy Principal Chief or Council Member shall meet the following general eligibility requirements consistent with the Constitution of the Cherokee Nation, Article VI, Section 3, Article VII, Sections 2 and 3, and Article IX, Section 2 and Federal and Cherokee Nation Supreme Court decisions:

1. The Candidate shall be a Citizen of the Cherokee Nation, in accordance with Article IV of the Constitution of the Cherokee Nation and shall be a Citizen by blood of the Cherokee Nation.
2. The Candidate shall not have been convicted of or have pled guilty or no contest defense to a felony charge under the laws of the United States of America, or of any state, territory or possession thereof, or convicted of a crime in any Military General Court-Martial or Tribal Court of any Federally recognized Indian Tribe that would be considered a felony in State or Federal Court, unless such person has received a pardon or an expungement of his or her felony conviction, guilty plea to a felony charge, or plea of no contest/defense to a felony charge from an authorized official of the jurisdiction in which the Candidate was convicted or pled guilty or no contest defense to said felony charge; or the Candidate has received an expungement of his or her felony conviction, guilty plea to a felony charge, or plea of no contest/defense to a felony charge. provided that fFor the purposes of this section, a deferred sentence and/or an expungement of a felony record shall not constitute a pardon or expungement or affect or erase the felony conviction, a guilty plea to a felony charge, or a plea of no defense to a felony charge.
3. The Candidate shall not hold any office of honor, profit or trust in any other tribe of Indians, either elective or appointive, if elected to the Cherokee Nation office which he or she is seeking.
4. Any outstanding fines and civil penalties imposed by the Election Commission and any court ordered fines, costs, attorney's fees and/or civil penalties from during a previous Cherokee Nation General or Special Election must be paid before a person can be eligible to run as a Candidate for an Elective Office in a subsequent General or Special Election.

B. Prerequisites for Filing. In addition to the general eligibility qualifications set forth in subsection A herein, a Candidate must not be in violation of any of the following at the time of filing:

1. The Candidate shall not be an employee of the Cherokee Nation, including any corporation, agency or other entity which is at least fifty-one percent owned by the Cherokee Nation, as of the date of filing or at any time thereafter if elected provided, that an incumbent serving in an Elective Office shall not be deemed to be an employee for purposes of this section.

2. The Candidate may not file to run for an office if he or she has already filed to run for another office in the same [General or Special Election](#), unless the prior filing is withdrawn.

C. Other Qualifications. In addition to the requirements set forth in this section, each Candidate shall meet any other applicable requirements as set forth in the Constitution of the Cherokee Nation and this Chapter.

### **§ 32. Special Qualifications for Principal Chief and Deputy Principal Chief.**

In addition to the general qualifications set forth in § 31 of this Title, the qualifications for Principal Chief and Deputy Principal Chief as set forth in Article VII of the Constitution shall be as follows:

A. Age. The Candidate shall have obtained the age of thirty (30) years at the time of the [General or Special Election](#).

B. Residence. The Candidate shall have established a bona fide permanent residence within the jurisdictional boundaries of the Cherokee Nation for no less than 270 days immediately preceding the day of the [General Election](#) in which he or she is seeking election. Proof of a bona fide permanent residence shall be [determined](#) regulated by the Election Commission. If elected to office, the Candidate shall continuously maintain a bona fide permanent residence within the jurisdictional boundaries. Failure to meet this requirement shall subject the person to disqualification and removal from office.

### **§ 33. Special Qualifications for Council.**

In addition to the general qualifications set forth in § 31 of this Title, the qualifications for Council Member shall be as follows:

A. Age. The Candidate shall have obtained the age of twenty-five (25) years of age at the time of the election.

B. Residence. The Candidate shall have established a bona fide permanent residence in the district for which he or she is a Candidate for no less than 270 days immediately preceding the day of the **G**eneral **E**lection in which he or she is seeking election. Proof of a bona fide permanent residence shall be **determined** regulated by the Election Commission. If elected to office, the Candidate shall maintain a bona fide permanent residence in the district which he or she represents. Failure to meet this requirement shall subject the person to disqualification and removal from office. This section shall apply to "At-Large" **D**istrict Candidates, and thereby shall require that they establish a bona fide permanent residence located outside the jurisdictional boundaries of the Cherokee Nation no less than 270 days immediately preceding the day of the **G**eneral **E**lection to which he or she is seeking election.

### § 34. Establishment of Residency.

Proof of a bona fide permanent residence, necessary to qualify as a Candidate for Council, Principal Chief and Deputy Principal Chief shall be **determined** regulated by the Election Commission, subject to the following definitions and requirements:

A. Definition. Residence is synonymous with the term domicile or abode and means a place where the Candidate has a true, fixed and permanent home, and to which, whenever absent, the Candidate has the intention to return.

B. Verification. Verification of residence may be shown by at least three (3) of the following documents, provided always that such documents show one or more addresses within the required geographic area for a continuous period of 270 days for the time-period outlined in the requirements for each elective office.

1. Current driver's license(s), Utility bill or bills.
2. Income tax return from the preceding year.
3. State or **C**ounty **V**voter's **R**egistration.
4. Homestead **E**xemption.
5. A bona fide document evidencing such verification.

### § 35. Filing fees generally.

A. Amount; Payment. A filing fee shall be charged **to** each Candidate filing for an elected office of the

Cherokee Nation. Such fees are to be filed and paid to the Election Commission by cash, cashier's check, money order, or valid check at the Cherokee Nation Election Commission Office, Tahlequah, Oklahoma. The fees shall be as follows:

Office of the Principal Chief	\$2,500.00
Office of the Deputy Principal Chief	\$2,000.00
Office of the Council	\$ 1,000500.00

B. No Refund. No refund of a filing fee shall be permitted for any reason, even if the Candidate withdraws voluntarily or is disqualified under the provisions of this law.

C. Payment from Campaign Funds of Candidate Filing Fee. A filing fee charged pursuant to this section may be paid from a Candidate's personal or campaign funds.

**§ 36. Filing of Candidacy; Withdrawal of Candidacy.**

- A. Filing Period. The filing date shall be for a four (4) day period commencing at 8:00 a.m. on the first Monday of February of the election year and ending at 5:00 p.m. on the first Thursday following the first Monday of February. The deadline for filing for an Elective Office of the Cherokee Nation shall be publicized by the Election Commission.
- B. Certifications and Acknowledgments. To be eligible to run for Elective Office, each prospective Candidate shall submit an application established by the Election Commission, which at a minimum shall contain the following:
1. Proof of Ccitizenship and membership by Indian blood consisting of his or her certificate of degree of Indian blood card and a Cherokee Nation Ccitizenship card issued in his or her name in accordance with Articles IV, VI, VII of the Constitution and Title 11 of the Cherokee Nation Code Annotated; and Federal and Cherokee Nation Supreme Court decisions.
  2. Proof of residency;
  3. Proof of age;



4. Certification that at time of filing that he or she is not an employee, voting board member or a voting Commission member of the Cherokee Nation, including any corporation, agency or other entity which is at least fifty-one percent owned by the Cherokee Nation, and acknowledgment that he or she understands that should he or she become an employee during the General or Special Election process, he or she shall be automatically disqualified as a Candidate;

5. Certification that if elected to office, said Candidate shall resolve all conflicts of interest as defined by Title 28 of the Cherokee Nation Code Annotated;

6. Acknowledgment that said Candidate shall be automatically disqualified in the event that any false or misleading information or statements are made in filing for office; and

7. Such other documents, certifications and acknowledgments required by regulation of the Election Commission.

C. Background Checks and Eligibility Certification. The Election Commission shall conduct background checks and review all information necessary for a determination of eligibility pursuant to regulations prescribed by the Election Commission. The Election Commission shall issue an official letter certifying the eligibility of each Candidate or denying said eligibility within twelve (12) working days after the close of the filing period.

D. Withdrawal of Candidacy. Any Candidate who wishes to withdraw from the election shall have the opportunity to do so by providing a formal written notice to the Election Commission; provided, a Candidate that withdraws after the ballots are printed shall remain on the ballot, but any votes for said Candidate shall not be counted or considered in determining the winner of a General or Special Election or if a Run-Off is necessary ten (10) working days after the deadline for filing.

E. A person who has become a Candidate according to § 3(3) of this Title, and fails to actually file as a Candidate for office, shall be assessed a civil penalty equal to the filing fee of said office unless said civil penalty is waived by the Election Commission for good cause.

### § 37. Challenges.

A. No Third Party Challenge of Eligibility. Unless a Candidate is unopposed, only opposing Candidate(s) shall have the right to contest the eligibility of any Candidate to run for office. The protest shall be received by the Election Commission in writing within five (5) business days after the close of the filing period. The hearing shall be conducted in conformance with Rules and Regulations adopted by the Election Commission for said proceedings. Said Rules and Regulations shall provide the Candidate

reasonable notice of the challenge and the opportunity to respond at a hearing before the Election Commission. In the case of an unopposed Candidate, only a Registered Voter from within the Candidate's district may contest the eligibility of the unopposed Candidate. In the case of a challenge to an unopposed Candidate for At-Large Tribal Council, any at-large registered voter may challenge eligibility. In the case of a challenge to an unopposed Candidate for Principal Chief or Deputy Principal Chief, any registered voter may challenge eligibility.

- B. Candidate Eligibility Determination Appeals Contests to Cherokee Nation Supreme Court. Any Candidate who receives a notice of denial of eligibility for candidacy may contest such determination. Such contest shall be submitted in a form prescribed by the Election Commission and may contain supporting documentation relating to the reasons for denial of eligibility. A denial of eligibility contest shall be submitted to the Cherokee Nation Election Commission no later than three (3) business days after receipt of the notice of denial of eligibility. The Election Commission shall review the contest and any supporting documentation and issue a decision in the matter no later than three (3) business days after the contest submission date. An appeal of any decision of the Election Commission concerning a Candidate's eligibility shall be filed with the Cherokee Nation Supreme Court in writing no later than five (5) business days after receipt of the Election Commission's notice of denial or approval of eligibility for candidacy decision. Only the person denied eligibility, the opposing Candidate, or Registered Voter as provided above, who originally filed a protest challenging the person's eligibility shall be permitted to file a contest or an appeal. The Election Commission Chairperson shall deliver copies of each notice of appeal and all related documents constituting the record on appeal to the Cherokee Nation Supreme Court in a timely manner as directed by the Court.
- C. Notice and Scheduling of Hearing. The Cherokee Nation Supreme Court shall issue notice of a hearing date within three (3) business days of the Court's receipt of an appeal of an Election Commission finding of a Candidate's eligibility or ineligibility. The hearing shall be held no later than ten (10) business days from date of issuance of said notice. The hearing may be continued to a later designated date for good cause, provided that said date shall not be more than ten (10) business days from date of the originally scheduled hearing.
- D. Conduct of Hearing; Decision. At the Cherokee Nation Supreme Court hearing, the Candidate who is the subject of the challenge, the opposing Candidate, or a Registered Voter as provided above, challenging the finding of eligibility and the Election Commission may each present testimony of witnesses, evidence and legal arguments. The Election Commission may be represented by the Election Commission's independent counsel. No other attorney shall appear on behalf of the Cherokee Nation or the executive or legislative branches at the government's expense. The other parties to the proceedings may be represented by counsel at their own expense. The decision of the Cherokee Nation Supreme Court shall be served on the parties no later than five (5) business days following the date of the hearing. The decision of the Cherokee Nation Supreme Court regarding a Candidate's eligibility shall be final.

**§ 38. Interference with and improper influences of the Election Commission and Violation of Contribution and Expenditure Requirements.**

- A. After a hearing held [by the Election Commission](#) in conformance with the regulations adopted by the Election Commission, ~~a~~Any Candidate found to be directly or indirectly interfering or attempting to interfere with the Election Commission's performance of its duties, or improperly influencing or attempting to influence the Election Commission while it is performing its duties, shall be [subject to disqualification](#) [disqualification](#) by the Election Commission from running for elected office of the Cherokee Nation for the duration of the upcoming election period, [as provided in § 39](#).
- B. After a hearing held [by the Election Commission](#) in conformance with the regulations adopted by the Election Commission, any Candidate or other person who is an [Indian](#) Citizen of the Cherokee Nation or a member of any other federally recognized Indian Tribe found to be directly or indirectly interfering or attempting to interfere with the Election Commission's performance of its duties, or improperly influencing or attempting to influence the Election Commission while it is performing its duties, shall be deemed to have committed a crime, subject to the applicable criminal and/or civil sanctions set forth herein and shall be referred to the Attorney General of the Cherokee Nation for prosecution as applicable.
- C. After a hearing held [by the Election Commission](#) in conformance with the regulations adopted by the Election Commission, any non-Indian person, corporation or other legal entity who or which has been found to be directly or indirectly interfering or attempting to interfere with the Election Commission's performance of its duties, or improperly influencing or attempting to influence the Election Commission while it is performing its duties, shall be deemed to have committed a civil violation and shall be subject to the civil penalties as provided herein.
- D. Said regulations shall provide the Candidate, person, corporation, other legal entity, and/or Citizen with reasonable notice of the violations and the opportunity to respond at a hearing before the Election Commission, and shall specify the manner in which the violations shall be presented and by whom. Any Candidate disqualified from holding office and/or [C](#)itizen referred for prosecution pursuant to this section may appeal the Election Commission's disqualification decision and/or referral for prosecution decision by filing a written appeal with the Cherokee Nation Supreme Court in conformance with the requirements of § 37 (B) of this Title.

**§ 39. Disqualification Hearings.**

[A. Hearing Authority.](#) [If an investigation uncovers evidence that a Candidate has violated §§ 43, 44, 46,](#)

48, and/or 104 of this Title; the Election Commission shall initiate a disqualification hearing.

- B. Notice and Scheduling of Hearing. The Election Commission shall provide a Candidate with reasonable notice of any violation which subjects the Candidate to disqualification from an election of the Cherokee Nation and the opportunity to respond at a hearing before the Election Commission. With due regard for the convenience of the parties, and of their representatives or witnesses, the Election Commission shall, as early as possible, fix the date, time, and place for the hearing and notify all parties and interested persons.
- C. Conduct of Hearing. Unless otherwise directed by a regulation adopted by the Election Commission, the Office of the Attorney General shall present evidence of any alleged violation. The Candidate may present legal argument, witness testimony, and evidence to rebut the basis of such evidence. The Candidate may be represented by counsel at their own expense in accordance with § 44 of this Title.
- D. Decision. A decision of the Election Commission issued pursuant to this Section shall be served on the parties no later than five (5) business days following the date of the hearing. Any decision of the Election Commission regarding a Candidate's disqualification from an election of the Cherokee Nation shall be appealable to the Cherokee Nation Supreme Court pursuant to § 40.

**§ and 40. Reserved Appeals of Decisions of the Election Commission; Conduct of Appeal.**

- A. Notice and Scheduling of Hearing. The Cherokee Nation Supreme Court shall issue notice of a hearing date within three (3) business days of the Court's receipt of an appeal of an Election Commission decision. The hearing shall be held no later than ten (10) business days from date of issuance of said notice. The hearing may be continued to a later designated date for good cause, provided that said date shall not be more than ten (10) business days from date of the originally scheduled hearing.
- B. Record on Appeal. The following items constitute the record on appeal: (i) clearly reproduced exact copies of the original documents and exhibits presented to the Election Commission; (ii) the transcript of proceedings, if any; and (iii) the certified decision of the Election Commission that is the basis of the appeal.
- C. Conduct of Hearing. In any Cherokee Nation Supreme Court hearing conducted pursuant to this Title, the Supreme Court's review shall be limited to the record on appeal. The appellant, the respondent, the Election Commission, and/or the Attorney General may each present legal argument. No witness

testimony or evidence outside of the record on appeal may be presented in an appeal brought pursuant to this Section. The Election Commission may be represented by the Election Commission's independent counsel. The other parties to the proceedings may be represented by counsel at their own expense in accordance with § 44 of this Title. Provided that, no other attorney shall appear on behalf of the Cherokee Nation or the executive or legislative branches at the government's expense, other than the Office of the Attorney General or the Tribal Council Attorney. Neither the Office of the Attorney General nor the Tribal Council Attorney may be a party to an eligibility contest appeal brought pursuant to § 37.

D. Decision. The decision of the Cherokee Nation Supreme Court in any appeal brought pursuant to this Section shall be served on the parties no later than five (5) business days following the date of the hearing. Any decision of the Cherokee Nation Supreme Court regarding a Candidate's eligibility shall be final.

## CHAPTER 5

### Disclosure of Campaign Finances

#### § 41. Definitions.

For purposes of this chapter, the following terms shall be defined as follows:

- A. Campaign Ccontribution. "Campaign Ccontribution" means a contribution in money or goods or services to a Ccandidate or political committee that is offered or given with the intent that it be used in connection with a campaign for elective office or on behalf of a ballot measure. Whether a contribution is made before, during, or after an election does not affect its status as a Ccampaign Cc ontribution. A Ccandidate that withdraws from an election or fails to file, must report their contributions and expenditures., Any excess contributions beyond expenses must be forwarded to the Election Commission or returned to contributors by the end of the applicable election period.
- B. Campaign Eexpenditure. "Campaign Eexpenditure" means an expenditure of money or services incurred by any person in connection with a campaign for an elective office or on behalf of a ballot measure. Whether an expenditure is incurred before, during or after an election does not affect its status as a campaign expenditure. A Candidate that withdraws from an election or fails to file must report their contributions and expenditures., Any excess contributions beyond expenses must be forwarded to the Election Commission or returned to the contributors by the end of the applicable

election period.

- C. Financial Agent. "Financial Agent" means the person or persons, who shall be a Citizen of the Cherokee Nation, designated and authorized by a Candidate to accept contributions and pay obligations related to the Candidate's campaign pursuant to § 42 of this Title.
- D. Report. "Report" means a financial disclosure report required by this Chapter.
- E. Legal Entity. "Legal Entity" means any associations or groups comprised of any combination of individuals or corporations that expresses interest by political activities, financial contributions or other methods of either support for or opposition to any Candidate for any office or any Constitutional amendments, initiatives and referenda in any Cherokee Nation Election.
- F. Loans. "Loan" shall be any payment made from the candidate's own funds for campaign purposes, or any funds obtained by loan to the Candidate from a bank, savings and loan association or credit union on his or her own behalf, and shall be considered as contributions, unless specifically exempted herein .
- G. In-Kind Contribution. "In-Kind Contribution" shall mean any campaign contribution of a good or service rather than a money donation. In-Kind contributions shall be reported as such, and the report shall include the name of the donor, his or her address, occupation, and the fair market value of the good or service contributed. Provided that legal services offered to a Campaign pursuant to § 43 (F) of this Title shall not be considered an In-Kind Contribution.

#### § 42. Designation of Financial Agent Filing; Penalty.

- A. No later than the filing date for an election, each Candidate shall file with the Election Commission a statement of designation, containing the names and addresses of every person authorized as the Candidate's financial agent by or through whom said Candidate has expended or proposes to expend money in defraying the expenses of his or her campaign, or a statement that the Candidate has not authorized and will not authorize any person to act for him or her, but that the Candidate will account for all money or other things of value expended in the interest of his or her candidacy. The Candidate will be allowed to amend the designation any time prior to the opening of the polls on the

day set for the election; provided such changes shall only be effective on the date such amendments is filed with the Commission. Should the Candidate fail to file said statement, the Election Commission shall find the Candidate in violation of this section and shall assess the Candidate a fine in an amount no less than one hundred dollars(\$100.00) and no more than five hundred dollars (\$500.00).

- B. Any person, person or entity who files a ballot measure which shall include but not be limited to initiative question, referendum questions or Cconstitutional Aamendments shall register a Ffinancial Aagent with the Election Commission and shall follow the Ffinancial Ddisclosure requirements set forth in this Title.
  
- C. The Election Commission may, at their discretion, hold a training session for all Candidates and all Ffinancial Aagents and make it mandatory.

#### § 43. Restrictions Related to Contributions.

- A. Contributors Limited to Individual Natural Persons. Contributions may only be made by individual natural persons. No corporation, partnership, and/or any other legal entity shall contribute to any Cherokee Nation campaign or Candidate.
  
- B. Contribution Amount Limits. No natural person shall contribute more than five-thousand dollars (\$5,000.00) in cash or lin-Kkind to any one Candidate during an election period. Personal funds of a Candidate expended for their campaign purposes are not subject to a Five Thousand Dollar (\$5,000.00) limit but shall should be included in the expense report of the Candidate.
  
- C. Contributions on Behalf of Another; Contributions in Name of Minor: Reimbursements. No person shall knowingly make or authorize a campaign contribution or political expenditure in the name of or on behalf of another person. No contributions shall be made in the name of a minor. No person shall directly or indirectly reimburse another for a contribution to a Candidate; provided that a Candidate who provides a loan of personal funds to his or her campaign may repay him or herself from later raised campaign funds and shall be reflected in the financial report of the Candidate. Such personal loan repayment shall not exceed an amount of Fifty Thousand Dollars (\$50,000.00) per election period.
  
- D. Prohibition Against Intimidation. No Candidate, person, corporation or other legal entity shall use or threaten to use physical force, job discrimination, employment reprisal, employment reward, or financial reprisal to obtain money or any other thing of value for the purpose of influencing the result of an election or to assist an office holder.

E. Every person shall provide their name, address, and occupation with every contribution made to a Candidate or on behalf of a ballot measure. The Candidate or his or her Financial Agent shall forward this information to the Election Commission.

F. Attorney's Fees Excluded. Legal services provided to a Campaign by a natural person shall not be considered an In-Kind Contribution if:

1. Such natural person is a licensed member of the Cherokee Nation Bar Association; and

2. Such services are provided only for the purpose of ensuring the Campaign's compliance with the laws of the Cherokee Nation, including and/or representation of a Campaign or Candidate in proceedings before the Cherokee Nation Election Commission or Courts of the Cherokee Nation.

#### **§ 44. Candidate Requirements related to Acceptance of Campaign Contributions and Expenditures.**

A. Period for Acceptance of Campaign Contributions. No Officeholder, no Candidate, no potential Candidate for elective office and no Financial Agent shall receive campaign contributions prior to the beginning of the six month period immediately preceding the General Primary Election or Special Election date for the office sought by said Candidate or potential Candidate, or past the date which is six months immediately following said General Primary Election or Special Election date. Unless otherwise provided all campaign contributions shall include the name, address, occupation and the amount given by the individual.

B. No Personal Use of Contributions. No Candidate or Financial Agent, corporation, legal entity or other person who receives a campaign contribution may convert the contribution to personal use, including any use that primarily furthers individual or family purposes not connected with the performance of duties or activities as a Candidate for elective office. Left over contributions will be turned over to the Election Commission to be placed in an escrow account to be reserved for the cost of subsequent Cherokee Nation Elections.

C. Prohibition against Intimidation. No Candidate or financial agent, corporation, legal entity or other person shall knowingly solicit or accept a contribution or make any expenditure by using anything of



value secured by actual or threat of physical force, job discrimination, employment reprisal, employment reward, or financial reprisals.

- D. Prohibition related to Cherokee Nation Employees. No Candidate or Ffinancial Aagent, corporation, legal entity or other person shall solicit a contribution from an employee of the Cherokee Nation or any other person, including, but not limited to, an employee of any corporation, agency or other entity that is at least fifty-one percent owned by the Cherokee Nation or any other corporation, agency, or other entity, in exchange for any advantage or promise of an advantage conditioned on making a contribution, or based on reprisal or threat of reprisal related to the failure to make a contribution.
- E. Anonymous Contributions. No Candidate or Ffinancial Aagent, corporation, legal entity or other person shall accept anonymous contributions exceeding one thousand dollars (\$1000.00) in aggregate per Eelection Pperiod. The recipient of total anonymous contributions of more than one thousand dollars (\$1000.00) shall not keep the amount which is in excess of one thousand dollars (\$1000.00) but shall, within two (2) business days of receipt of the contribution that causes the total anonymous contributions to exceed one thousand dollars (\$1000.00), turn it over the Election Commission for immediate deposit to an escrow account to be reserved for the cost of subsequent Cherokee Nation Elections.
- F. Expenditure Records and Receipts. An expenditure of more than one hundred dollars (\$100.00) for campaign purposes shall be made by written instrument drawn upon the campaign account containing the name of the Candidate and the name of the recipient.
- G. General Prohibition. No Candidate or Ffinancial Aagent, corporation, legal entity or other person shall knowingly accept a campaign contribution or knowingly make or authorize political expenditures that the Candidate or his or her Ffinancial Aagent knows to have been made in violation of this section or § 43 of this Title; nor shall any Candidate, Ffinancial Aagent or Citizen offer or provide something of value intended to influence the vote of a Vvoter of the Cherokee Nation; and no Candidate, Ffinancial Aagent or CCitizen shall solicit or accept campaign funds or contributions that violates Sections 43 and 44 of this Title.
- H. Prohibition against Expenditures for Attorney's Fees. If attorney's fees are paid, such fees must be paid from a Candidate's personal funds, and may not be paid from funds of a campaign account. Provided nothing in this section shall apply to the in-kind fees referenced in Section 43(F).

**§ 45. Sanctions for Violations of Contribution and Expenditure Requirements and Prohibitions.**

A. Criminal Sanctions. Any Candidate or other person who is an **Indian** Citizen of the Cherokee Nation or a member of any other federally recognized Indian tribe who has violated any requirement or prohibition in §§ 43 and 44 of this Title shall be guilty of a crime and subject to: (i) prosecution under the Penal Code **criminal laws** of the Cherokee Nation and subject to the penalties therein; and (ii) disqualification by the Election Commission as provided under § 38 of this Title.

B. Civil Damages. Any Candidate, other person, corporation or other legal entity who or which has knowingly made or accepted a **Ccampaign Ccontribution** or made a **Ccampaign Eexpenditure** on behalf of a Candidate in violation of §§ 43 and 44 of this Title shall be liable to the Election Commission and to any party whose name appeared on the ballot in opposition to said Candidate in the amount of double the value of the unlawful contribution or expenditure. Said damages shall be payable to each plaintiff filing suit in the Cherokee Nation District Court within six (6) months of the final election date, upon a finding of a violation(s) by said Court, plus reasonable attorney's fees incurred in the suit. Reasonable attorney's fees incurred in a suit brought under this subsection may be awarded to the defendant if judgment is rendered in defendant's favor.

C. Disqualified Candidates. **Votes for any Candidate who is disqualified after the printing of ballots shall not be counted or considered in determining the winner of an election or if a runoff is necessary. Votes cast for such disqualified Candidate shall not be considered in the tabulation of final votes cast.**

**§ 46. Financial Disclosure Report-Forms; Time of Filing; Corrections; Late Filing; Failure to File; Complaints.**

A. Report Forms; Certification. Each Candidate filing for elective office of the Cherokee Nation shall file with the Election Commission, a certified monthly and final **Ffinancial Ddisclosure Rreport** on forms provided by the Election Commission. The report shall include information for each of the **Ffinancial Aagents** named by the Candidate pursuant to § 42 of this Title.

B. Time of Filing Monthly Report; Late Filing, Failure to File. Each Candidate shall deliver a complete monthly **Ffinancial Ddisclosure Rreport** to the Election Commission Office beginning with a report for the month that the Candidate filed for office. The report shall **be comprised** of the entire previous month, beginning on the first day of the month and ending on the last **day of the month**. The report shall be due **by** on the 15th day of the following month. In the event that the Election Commission has not received a monthly report by the 15th day of the month in which it was due, **failure to file a final report or revised final report when due or failure to refile an incomplete report when due**, the Election Commission shall impose a fine in the amount of \$100 on the Candidate and shall send a notice of the

failure to meet the deadline and notice of the fine to the Candidate by certified mail return receipt requested. Unless the Candidate can show extenuating circumstances for his or her failure to file a report or the filing of an incomplete report by the 15<sup>th</sup> day of the month following the month in which it was due; failure to meet the deadline for any two monthly reports; or failure to pay a fine by the date of election, the Candidate shall be disqualified from the election by the Election Commission after notice and hearing. Said disqualification may be appealed to the Cherokee Nation Supreme Court. The Election Commission shall expedite all such proceedings.

C. Time of Filing Final Report. The Candidate or his or her **F**financial **A**gent shall file a final **F**financial **D**isclosure **R**eport no later than five (5) days prior to the date for swearing in of the successful Candidates. The Candidate receiving the highest number of votes in any Cherokee Nation Election shall not be eligible to take office until his or her final report is filed.

D. Corrections: Revisions; Retention of Reports. The Election Commission shall give the Candidate an opportunity to correct any deficiency or error in his or her reports. Any contributions **and/or expenditures** received during the six months period following said election date shall be recorded on a revised final report to be filed no later than the first of the month following the expiration date of said six-month period. The reports shall be maintained by the Election Commission Office, which shall preserve the reports in a secure location for at least five years, during which time they shall be a public record available for inspection and copying **by the Election Commission** for a reasonable fee for search and/or making copies of such reports **provided that no photo shall be taken by cell phone, camera or other electronic device**.

E. No Third Party Complaints. Unless a Candidate is unopposed, only opposing Candidate(s) shall have the right to file a complaint related to a Financial Disclosure Report. In the case of an unopposed Candidate, only a Registered Voter from within the district may file a complaint related to an unopposed Candidate's Financial Disclosure Report.

#### **§ 47. Financial Disclosure Report--Contents.**

A. Contributions. With respect to contributions, the report shall include the name, occupation, and mailing address of the source of each contribution **and interest earned on contributions**.

B. Expenditures. The report shall detail **all campaign related** expenditures in categories set forth on the report form, **including costs of travel and expenses from campaign related events, excluding filing fees**, excluding filing fees, any interest earned on contributions, Candidate's costs for necessary personal travel within the boundaries of the Cherokee Nation, and Candidate's subsistence expenses. Payment

made by a Candidate or his or her **F**inancial **A**gent from the Candidate's own funds shall be included as expenditures for purposes of this subsection, and may be shown as a loan from the Candidate or may include any funds loaned to the Candidate by a bank, savings and loan association or credit union and on his or her own behalf, and shall not be considered as contributions. All expenditure from loans shall specify the name of the lending institution, the date and amount of the loans. The Candidate may reimburse his or her personal funds from campaign contributions in the amount of the reported loan (s).

C. Radio and Television Time. Where radio and television time is donated or offered on an equal basis to all qualified Candidates for any particular office, said donation shall be reported by or on behalf of each Candidate receiving the same, without assigning any cash value thereto.

D. No Financial Activities. If there has been no financial activity subject to the reporting requirements of this section for the reporting period, the Candidate and/or his or her **F**inancial **A**gents shall so certify on the report.

E. Certification; Criminal Sanctions for Misrepresentation. Each **F**inancial **D**isclosure **R**eport shall be certified by the Candidate or his or her **F**inancial **A**gents. A Candidate or a Candidate's **F**inancial **A**gent who certifies a report and therein knowingly fails to fully disclose the information required in this section as to any gift, promise, treat, reward, favor, or anything of value given or expended, is guilty of a crime. If a person is convicted of a criminal violation under this subsection, then he or she shall not hold the office and shall be barred for a period of five (5) years from holding any elective office of the Cherokee Nation. Where any person who has received the highest number of votes for any office is disqualified from holding said office, a Special Election shall be held to elect another person to hold such office. If the Candidate has been elected and sworn into office, such conviction may be grounds for removal under Article XI of the Cherokee **N**ation Constitution.

#### **§ 48. Restrictions Related to Independent Expenditures.**

A. Prohibition Against Independent Expenditures. Independent expenditures shall be prohibited in the elections of the Cherokee Nation.

B. Criminal Sanctions for Participating and/or Contributing to Independent Expenditure. Any person or legal entity who participates in, contributes to, coordinates, and/or directs an independent expenditure in an election of the Cherokee Nation shall be guilty of a crime. A criminal violation of this subsection is punishable by imprisonment for not more than two (2) years or by a fine not exceeding Five Thousand

Dollars (\$5,000.00), or by both such fine and imprisonment.

- C. Civil Penalties for Contributing to Independent Expenditure. Any person who contributes to an independent expenditure in an election of the Cherokee Nation may be assessed a civil penalty by the Cherokee Nation Election Commission. Such civil penalty shall not exceed Five Hundred Thousand Dollars (\$500,000.00), per contribution.
- D. Cooperation of Candidate. Any clearly identified Candidate who benefits from an Independent Expenditure in an election of the Cherokee Nation shall cooperate with any investigation relating to such an Independent Expenditure. A Candidate shall make all reasonable efforts to stop or halt the Independent Expenditure. A Candidate shall have an affirmative duty to disclose any information regarding the existence of an Independent Expenditure to the Cherokee Nation Election Commission and the Cherokee Nation Marshal Service and to cooperate in any related investigation. A Candidate's failure to cooperate, as provided in this section, may subject the Candidate to disqualification.
- E. Affirmative Duty to Disclose. Any Candidate who has knowledge of an Independent Expenditure in an election of the Cherokee Nation shall have an affirmative duty to disclose such knowledge to the Election Commission and the Cherokee Nation Marshal and to cooperate in any related investigation. Failure to disclose such knowledge may subject the candidate to criminal and/or civil penalties as provided by law.
- F. Jurisdiction. Any person, citizen or non-citizen, or legal entity, who directly or indirectly participates in an Independent Expenditure, as defined herein, shall be deemed a participant in conduct that threatens or has some direct effect on the political integrity of the Cherokee Nation and shall have availed themselves to the civil and criminal jurisdiction of the Courts of the Cherokee Nation.

#### **§ 49. Campaign Material Disclaimer.**

- A. Disclaimer for Electioneering Communications Required. Any electioneering communication on behalf of a Campaign and/or any other form of general public political advertisement, using the following digital or printed media:

1. Broadcast, cable or satellite;
2. Newspaper or magazine;
3. Large-scale outdoor advertising;
4. Mass mailing (more than 100 substantially similar mailings within 30 days);
5. Communications placed for a fee on another person's website;
6. Electronic mail (more than 100 substantially similar communications sent by a clearly identified candidate);
7. Websites that are available to the general public.

shall contain a disclaimer which states that the communication was "paid for by" the identified Candidate by the first and last name by which the Candidate is known.

B. Manner of Display. The phrase "paid for by" and the name of the Candidate must be in at least the same size font as a majority of the text and must be a contrasting color that is easily readable by the average viewer.

C. Exceptions. A disclaimer is not required when:

1. It cannot be conveniently printed on an item, such as but not limited to pens, bumper stickers, campaign pins, campaign buttons, and campaign lawn signs;
2. Its display is not practical; or
3. The item is of minimal value, does not contain a political message and is used for administrative purposes, such as but not limited to checks and receipts.

**§ - 50. Reserved. Conduct in Support of or Opposition to a Ballot Measure**

- A. A Ballot Measure as used herein is defined as an Initiative, Referendum or Constitutional Amendment as defined by Article XV of the Cherokee Nation Constitution that has been filed with the Cherokee Nation Election Commission as per this section.
  
- B. The Cherokee Nation citizen who files any Ballot Measure shall also file with the Cherokee Nation Election Commission a statement designating themselves as the Ballot Measure Financial Agent.
  
- C. The Ballot Measure Financial Agent shall be subject to all requirements, disclosures, limitations and penalties outlined in this Code pertaining to a candidate for elected office as defined in Section 3(3) of this Title.
  
- D. Ballot Measure Contributions: Notwithstanding the Candidate contribution limitations set forth in Section 43B of this Code, any Individual Natural Person may also contribute a maximum of five-thousand dollars (\$5,000.00) to any single Ballot Measure.

## CHAPTER 6

### Conduct of Elections

#### ARTICLE I. GENERAL PROVISIONS

##### § 51. Official Election Dates; Notice.

- A. General Election. The **G**eneral **P**primary **E**lection for elective offices shall be the first Saturday in June of the election year.
  
- B. Runoff Election. The **R**run-**O**ff **E**lection for a **G**eneral **E**lection shall be the fourth **second** Saturday in July of the election year.
  
- C. Special Election; Special Dates and Procedures. A Special Election shall be called in accordance with the Constitution for a specifically stated purpose or purposes. The Council shall determine the date for the **Special P**primary **E**lection, and if necessary the date for a **Special R**run-**O**ff **E**lection. Special Elections shall be conducted in compliance with this Title, provided that the deadlines established in this Title for the following purposes may be changed and specially set by the Election Commission and

confirmed by the Council to meet the particular needs related to a Special Election: (i) the cut-off date for eligibility to vote in an election established in § 2 of this Title; (ii) the deadline for providing voter lists to Ccandidates established in § 25 of this Title; (iii) the candidacy filing date established in § 36 of this Title; (iv) the swearing-in date established in § 51 of this Title; (v) the Aabsentee Bballot Rrequest deadline and Aabsentee Bballot issuance dates established in §73 of this Title; and (vi) any other date which requires special setting. Special Elections for Constitutional provisions may be conducted, if authorized by the Council, by mail-in vote.

- D. Notice. Notice of each election date shall be given by the Election Commission.
  
- E. Swearing in of Elected Officials. The swearing in of the successful Candidates for elective office shall be August 14 of the election year.

## § 52. Electioneering.

- A. Electioneering Near Polling Area: No person shall be allowed to electioneer inside any Precinct or within three hundred (300) feet outside of the entrance to any Precinct while an election is in progress, nor shall any person or persons, except Pprecinct Oofficials and other persons authorized by law, be allowed to approach the Ballot Box while an election is in progress. Prohibited activities within the prescribed area by a Candidate or other persons on Election Dday which might reasonably be construed as electioneering shall include the following: wearing any article of clothing with any Candidate's name or office on it or holding any article with any Candidate's name or office on it; or distribution or display of any written materials, campaign literature or campaign items of any kind or nature within the prescribed area, other than that provided by the Election Commission.
  
- B. Obstructing or Impeding Voter Access to Polling Place: No person shall be allowed to impede or obstruct voters attempting to access polling places while an election is in progress, including, but not limited to, by obstructing or impeding any entrances or exits utilized by vehicles occupied by voters traveling to or traveling from the polling place.
  
- C. Enforcement, Notice to Law Enforcement and Regulations: Persons engaged in the conduct described proscribed in subsections A and B above, shall be subject to removal by local law enforcement and/or the Cherokee Nation Marshal Service at the request of the appropriate official, including but not limited to any Pprecinct Oofficial. The Election Commission shall notify appropriate law enforcement departments of the provisions set forth in § 52(A) and § 52(B) of this Title.

- D. Employee Solicitation: Use of official website of the Cherokee Nation, the Cherokee Nation intranet,



Cherokee Nation office equipment, employee address list, or office phone extensions or Cherokee Nation cell phones, or the use of any property owned by the Cherokee Nation or its entities for political purposes is prohibited. Any Candidate, other person, corporation or legal entity that violates this section shall be assessed a one hundred dollar (\$100) civil penalty per occurrence violation.

E. Criminal Sanctions. Any Candidate or other person who is an Indian Citizen of the Cherokee Nation or a member of any other federally recognized Indian tribe who has violated any requirement or prohibition in § 52 of this Title shall be guilty of a crime.

### § 53. **Ballot Box Watchers.**

A. Primary Election. Each Candidate in a General Primary Election for the office of the Principal Chief, Deputy Principal Chief, and for the Council may submit one (1) name and up to two (2) alternates as their designated watchers at each Precinct and Early Walk-In in person Absentee Voting within a time to be prescribed by the Election Commission. Each Candidate may also submit one (1) watcher name and two (2) alternate names for the Absentee Ballot Affidavit examinations.

B. Runoff Election. In the event of a Runoff Election, Candidates in the Runoff Election may submit one (1) watcher name and up to two (2) alternate watcher names as their designated watchers at each Precinct and Early Walk-In Absentee voting within five (5) business days from date of certification of results of the General Primary Election. Each Candidate may also submit one (1) watcher name and two (2) alternate names for the Absentee Ballot Affidavit examinations.

C. Selection of Watchers. No Candidate for any elective office in the Cherokee Nation, as defined in § 3(3) of this Title shall be a watcher and no one in an elective office for the Cherokee Nation shall be a watcher if they are currently serving in that elective office capacity during an election. In addition, no former Tribal Councilor, former Principal Chief or former Deputy Principal Chief shall serve as watchers in any Cherokee Nation Elections. The selection of the watchers and their designated Precincts shall be by random drawing of names submitted by Candidates for each respective district and Early Walk-In Absentee voting. to be assigned within those districts. The Election Commission shall have the sole authority to determine the number of watchers in any given Precinct. The selection of two (2) six (6) absentee watchers and two (2) alternate watchers shall be made for each day that absentee declarations are examined prior to and on the day of the election. No person shall serve as an absentee watcher for more than one day and no person shall serve as an Early Walk-In Absentee Watcher for more than one day. The selection of absentee watchers and alternates shall be by random drawing of six (6) names from the list of names submitted by the Candidates pursuant to §§ 53 (A) and 53 (B) of this Title until the names of six (6) watchers and two (2) alternate watchers have been drawn. All names for consideration must have come from the list submitted by the Candidate when the

Candidate filed for office.

D. Duties of Watchers. Watchers shall be entitled to observe the Ballot Box, including a Counting Device and all printouts from the Counting Device, before the Precincts are opened, during voting and after the Precincts are closed. Watchers may be commissioned to observe Counting Device testing and to accompany personnel assigned to repair or maintain machines during the period of the election. In such case, the Watchers shall be limited to observing the repair or maintenance work being performed and making a written record of such work. A Watcher is an observer only. Watchers are permitted to talk with the Inspector or a member of the Cherokee Nation Election Commission only. The Watcher may notify Inspector/Commissioner if they notice any kind of irregularity at which point Inspector/Commissioner corrects the issue. A Watcher is not permitted to bring a cell phone or any other electronic devices, or make or receive phone calls. A Watcher may not leave the building from 7:00 a.m. until after 7:00 p.m. PM. If the Watcher leaves, the Watcher shall not return **except with the consent from a Commissioner of the Election Commission**. The Watcher shall remain at the Precinct until all the work has been completed and the Inspector is ready to return the election materials to the Election Commission. A Watcher may ask a Precinct Worker to call the Election Commission to voice any complaints, questions or allegations of improprieties to the Election Commission.

#### **§ 54. Tabulation Watchers.**

A. Selection. The Cherokee Nation Election Commission shall select at random two (2) Tabulation Watchers selected pursuant to this section: one(1) for the Principal Chief and Deputy Chief race tabulations and one(1) for the Tribal Council race tabulation. shall be deemed Tabulation Watchers.

B. Principal Chief and Deputy Principal Chief Candidates. Each Candidate in a General Primary Election for the office of the Principal Chief and Deputy Principal Chief may submit one (1) name and up to two (2) alternates as their designated Tabulation Watchers within a time to be prescribed by the Election Commission.

C. Council Candidates. Each Candidate in a General Primary Election for the office of the Council may submit one (1) name and up to two (2) alternates as their designated Tabulation Watchers within a time to be prescribed by the Election Commission; provided that no single District shall be allowed more than two (2) Tabulation Watchers. In the event more than two (2) Candidates are listed on the ballot for any single District, each Candidate's designated Tabulation Watchers shall be chosen by random drawing from the list of names submitted by the Candidates.

D. Runoff Election. Each Candidate in a Runoff Election may submit one (1) watcher name and up to two (2) alternate watcher names as their designated Tabulation Watchers within a time to be prescribed by the Election Commission..

E. Duties. Tabulation Watchers shall be entitled to observe the tabulation of ballots at the Election Commission. Tabulation Watchers shall be limited to observing the tabulation work being performed and making a written record of such work. Tabulation Watchers are to observe only; provided that they are permitted to speak with a member of the Cherokee Nation Election Commission if they notice any kind of irregularity at which point the Commissioner shall address the issue. A Tabulation Watcher is not permitted to bring any electronic device into the Election Commission during tabulation. A Tabulation Watcher is not permitted to make or receive phone calls; send or receive text or instant messaging; or send or receive electronic communications during his or her activities performed pursuant to this section. If a Tabulation Watcher exits the Election Commission during ballot tabulation, he or she shall not be permitted to re-enter the building, unless a Commissioner of the Election Commission consents to such re-entry. A Tabulation Watcher found to be in violation of this Section shall be removed from the building and barred from receiving consent to re-enter.

**§ 55. Uncontested Elections; Cancellation; Notice.**

A. Cancellation. To avoid unnecessary costs, the Election Commission shall cancel a regular or special election if the following occurs:

1. The filing deadline has passed; and
2. Not more than one qualified candidate has filed to run for any single open race during the election period; or
3. If at any time prior to election day, only one qualified candidate remains in the race.

B. Declaration. If an election is cancelled, the single remaining Candidate on the ballot shall be considered to be elected to that office for all purposes under the laws of the Cherokee Nation and Article 4, Section 3 of the Cherokee Nation Constitution, as if an election had occurred.

C. Notice. If the Election Commission determines that any election should be cancelled, it must provide reasonable notice of the cancellation.

§§ 564 through 60. Reserved.

## ARTICLE 2. VOTING GENERALLY

### § 61. Precinct and Hours; Notice.

The Election Commission shall establish the location of each Precinct in accordance with § 11 (C)(8) of this Title and the autonomous nature of the Election Commission. The Election Commission shall promulgate regulations listing the approved locations for Precincts, provided that said regulatory provisions listing approved locations may be amended, if needed. Each Precinct shall be open during the hours from 7:00 a.m. to 7:00 p.m. on the day of the election. The Election Commission shall publicize the location of each Precinct. In considering the location of Precincts the Election Commission shall, whenever practicable, locate Precincts on Indian Country as defined under Federal Law, thereby allowing Cherokee Nation legal jurisdiction over said areas.

### § 62. Manner of Voting Generally.

- A. Secret Ballot. Voting shall be by Ssecret Bballot.
- B. Procedure for Voting in Person. Except as provided in § 78 of this Title or as otherwise provided, any Registered Voter may vote by appearing at his or her designated Precinct, announcing to Pprecinct Oo officials his or her name and address, signing the registry, marking a ballot and placing in the Ballot Box or Counting Device.
- C. Absentee Ballot. Any Registered Voter may at his or her request vote by Aabsentee Bballot as prescribed in Article III of this chapter.
- D. Early Walk-InIn person Aabsentee Vvoting:
1. Any voter may vote by utilizing an Early Walk-In in-person Aabsentee Bballot at the Election Commission Office located at Tahlequah, Oklahoma during hours to be set by the Commission, which shall be at least from 9:00 a.m. to 5:00 p.m. on the Saturday before the General Election or Special Election ad on a minimum number of three (3) consecutive days commencing on Tuesday and ending

on Thursday preceding any General Election or Special Election immediately preceding any election provided for by this Title and at any other locations or times that the Election Commission deems necessary and appropriate. As part of the application for an Early Walk-In in-person Absentee Ballot, such voter shall swear or affirm that he or she has not voted a Regular Mail Absentee Ballot and that he or she will not vote at the regular polling place in the election for which the Early Walk-In in-person Absentee Ballot is requested. Any voter who violates the provisions of this section shall be guilty of a crime.

2. The Election Commission shall develop rules and procedures to carry out the requirements of this section.

### § 63. Voting by Persons with Physical Disabilities or Language Barriers.

- A. Inability to Mark Ballot. If a Voter appears at his or her Precinct or the Election Commission during Early Walk-In Absentee Voting and states that he or she, because of a physical disability or infirmity or language barrier, is unable to mark a ballot, the Inspector shall recite the following oath: "Do you solemnly swear or affirm that you are unable to mark your ballot for voting because of a (name of appropriate disability)." After taking the oath, the voter shall be permitted to be assisted by any person of his or her choice, at least eighteen (18) years of age, in voting his or her ballot.
- B. Inability to Enter Building. If a Voter is unable to enter the building due to physical disability or infirmity, he or she must send someone inside the Precinct to inform a Precinct Official. Upon notification, the Inspector shall go to the voter in the parking area of the Precinct, and recite the following oath: "Do you solemnly swear or affirm that you are unable to enter the Precinct because of a (name of appropriate disability)." A Precinct Official shall accompany the Inspector with appropriate materials and a ballot, shall present the ballot to the Voter after the Voter has taken the oath. The voter may then mark his or her ballot, and return it to the Precinct Official, who shall deposit it in the Ballot Box or Counting Device inside without viewing the ballot.
- C. Witness. All special assistance described herein shall be witnessed by the precinct inspector.

### § 64. Challenged Ballots.

A. Voting Procedure. If the Precinct Voter Signature Book List does not contain a Voter's name, or if a Precinct Official should challenge the Voter's right to vote for other reasons, said Voter shall be allowed to vote only if the Voter is registered to vote and completes a Voter Registration Application for a residence address within the district and signs a statement swearing or affirming that the Voter is currently eligible to vote in said Precinct and has not already cast a regular or Absentee Ballot for said General Election or Special Election. The Voter will sign a Challenged Ballot Roster and the Challenged Ballot issued to the Voter will be listed in the Ballot Issued Column. If the Voter's name appears in the Voter Signature Book, he or she will not sign the Voter Signature Book and the Inspector will designate "Challenged Ballot" by his or her name. WARNING: the Challenged voter will NOT sign the Voters Precinct Signature Book.

B. Preservation and Counting. Each Voted Challenged Ballot shall be placed in a Secrecy Envelope by the Voter and then placed in the Challenged Ballot Affidavit, which has been completed by the Inspector and signed by the Voter. The Inspector will attach the Voter Registration Application to the Challenged Ballot Affidavit envelope. Challenged Ballots shall not be counted with at the time the other cast ballots are cast, but shall be maintained in a separate bag marked "Challenged Ballot Bag" Following the close of the election, precinct officials designated by the Election Commission regulation shall determine whether the person who cast a Challenged Ballot was entitled to vote in the Precinct where the ballot was cast. If the person was so entitled, the ballot will be opened, counted, and secured in a container in the Vault. All counted Challenged Ballots will be totaled with other votes before Certification of the election. If the person was not entitled to vote, the ballot will not be opened or counted. If the Voter was not entitled to vote, the Un-opened Challenged Ballots will be secured in the Vault separate from the County Challenged Ballots.

#### § 65. Spoiled Ballots.

Should a Voter spoil any ballot in his or her effort to mark the same, he or she shall fold the ballot and return it to the Clerk. The Clerk shall tear destroy said ballot or ballots in the presence of the Voter and shall issue said Voter another ballot in the same manner that the first one was provided. The Voter shall execute a statement (Voter signs the Spoiled/Mutilated Ballot Envelope) prescribed by the Election Commission in which the Voter swears or affirms that he or she spoiled his or her original ballot or ballots, returned said ballot or ballots to the Clerk, that the Clerk tore destroyed the ballot or ballots in his or her presence and placed the torn destroyed ballot in the Spoiled/Mutilated Ballot Envelope and that he or she was issued a new ballot or ballots.

#### § 66. Mutilated Ballots.

In the event a ballot is mutilated by the Counting Device and not countable by the Counting Device, the V

oter will follow § 65 of this Title “Spoiled Ballots” procedure.

§ 67 through 70. Reserved.

### ARTICLE 3. ABSENTEE VOTING

#### § 71. Allowance of Absentee Voting.

Absentee Voting shall be allowed upon timely written request by a Registered Voter of the Cherokee Nation in compliance with the requirements of this Article 3.

#### § 72. Requests for Absentee Ballots Generally.

Any Registered Voter of the Cherokee Nation who is unable to vote in person at his or her Precinct may request an Absentee Ballot from the Election Commission. The request shall be in writing, submitted on a form prescribed by the Election Commission, shall contain an unsworn declaration under penalty of perjury, and shall contain the following Registered Voter’s information:

1. Name;
2. Date of birth;
3. Address of the Registered Voter;
4. Cherokee Nation Citizenship Registration Number; and
5. Hand written signature of the Registered Voter or copy of original signature.

Provided that if the Cherokee Nation Citizenship Registration Number is not provided with the request and there is sufficient information on the Absentee Ballot Request Application to identify the person as a Registered Voter, the request application shall be processed. All applications without sufficient information to clearly identify the Registered Voter shall be returned to the applicant for additional information. Any absentee ballot request application signed by a person other than the Registered Voter shall be marked as invalid and shall be referred to the Attorney General of the Cherokee Nation for prosecution as applicable. An absentee ballot request application may not direct that the absentee ballot be mailed to any Candidate or address used by any Candidate or the Candidate’s campaign, except for an individual absentee ballot requested by a Candidate or members of the Candidate’s household as Registered Voter(s). Forgery or unauthorized alteration on an Absentee Ballot request is a crime, punishable by imprisonment for not more than two (2) years or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment, per offense.

**§ 73. Time for Filing of Requests for Absentee Ballots; Furnishing of Ballots Generally.**

- A. Timelines. Registered Voters may request Absentee Ballots by mail, email, fax or in person at the Election Commission Office as provided in § 72 of this Title from the first Monday in January of the election year until the fifth working day after the close of Voter Registration from the upcoming General Election, midnight, CST third Friday in April of the election year in which the absentee ballot may be voted. Absentee Ballots shall be mailed to Registered Voters requesting the ballot in a two-day period starting on the last Tuesday in April of the election year and ending on the Wednesday immediately following said Tuesday.
- B. Runoff. In the event of a Runoff Election, the Election Commission Office shall automatically send an Absentee Ballot to all Registered Voter who were sent an Absentee Ballot for the General Election, except for Registered Voters whose Absentee Ballots in the General Election were returned unopened due to bad addresses. Absentee Ballot Requests for a Runoff Election by persons who did not vote by absentee ballot in the general election must be received by the Election Commission Office by the second third Monday in of June of the election year. Absentee Ballots for a Runoff Election shall be mailed to persons requesting the ballot during a two-day period starting on the third fourth Monday in June of the election year and ending on the Tuesday immediately following said Monday.
- C. Limitation. No more than one Absentee Ballot Request per individual signature for each election date shall be accepted.
- D. Incapacitation of Registered Voter. A Registered Voter who becomes physically incapacitated after 5:00 p.m. on Saturday preceding an election and is unable to vote in person at the appropriate Precinct on the day of the election may make a written request for an Absentee Ballot. The request shall be signed by the Voter, or signed by a witness at the Voter's direction if the Voter is unable to sign his or her name, and shall be transmitted to the Election Commission Office. The person transmitting said request on behalf of the Voter may be anyone of the Voter's choosing at least eighteen (18) years of age; provided, said person is not employed by nor related within the third degree of consanguinity or affinity to any person whose name appears on the ballot. The person becomes the Voter's agent for the purposes of voting by Absentee Ballot. The Voter's request must be accompanied by a sworn statement by a duly licensed physician. Expected or likely hospitalization or home confinement for physical incapacity or childbirth on Election Day is sufficient cause to entitle Voter to vote absentee pursuant to this section. The statement must attest to the fact that the Voter is in fact unable to vote in person at the appropriate Precinct on the day of the election because of a physical incapacity and that said physical incapacity originated after 5:00 p.m. on Saturday preceding an election. Upon receipt of Voter's request and accompanying sworn statement, the Election Commission Office shall issue to the Voter's agent the appropriate ballots and envelopes required for voting by incapacitated Voters. The ballots must be returned by the agent to the Election



Commission Office no later than 7:00 p.m. on the day of the election. No person may be the agent for more than one voter at any election. Upon return of the Absentee Ballots, the Election Commission Office shall cause said ballots to be processed in the same manner as is prescribed for other Absentee Ballots.

**§ 74. Procedure upon Rejection of Application for Absentee Ballot.**

In the event an Absentee Ballot Application for an absentee ballot is rejected for any reason, the Election Commission shall immediately notify said voter in writing of the rejection and the reason therefore.

**§ 75. Transmittal of Ballots to Voters Generally; Preparation of Record of Ballots Issued.**

When the Election Commission receives an Absentee Ballot Request, the Election Commission shall, after verification of the requesting voter's registration, transmit the ballot to said voter as provided herein. A record shall be made of all Absentee Ballots requested and issued, with the name, date of birth, voter's Cherokee Nation Citizenship Registration Number, date of issuance and address of the voter requesting the absentee ballot and to whom it was issued, and the address to which the absentee ballot is requested to be mailed. The Election Commission shall: (A) maintain a database and/or searchable list of the Registered Voter and the address to which each absentee ballot is requested to be mailed to for each election; and (B) initiate an investigation into any address where more than ten (10) absentee ballots are requested to be mailed for a single election. Such investigation(s) shall insure the validity and compliance with this Title of any absentee ballot requests and/or absentee ballots.

**§ 76. Form of Absentee Ballots.**

Absentee ballots shall indicate for which election they may be voted. Absentee Ballots shall be identical to the ballots used in Precinct voting but shall be stamped "Absentee Ballot" and identify in which election the ballot may be voted.

**§ 77. Material to Accompany Absentee Ballots Generally.**

A. Affidavit. Each Absentee Ballot or set of ballots shall be accompanied by an Affidavit containing statements that the voter is qualified to vote, that the voter has personally marked the ballot(s), or in the case of a disability or illiteracy, has caused the ballot(s) to be marked in accordance with his or her wishes, that he or she has not exhibited the marked ballot(s) to any other person, and contain any other statements required by Election Commission regulations that are designed to ensure the

integrity of the absentee voting process.

- B. Secrecy Envelopes. Each **A**absentee **B**ballot or set of ballots shall be accompanied by envelopes designed to ensure the secrecy of the ballot, including an inner **S**secrecy **E**envelope for the ballot, designed to be devoid of any identifying information at the time of opening, and a return envelope addressed to the Election Commission.
- C. Instructions. Each **A**absentee **B**ballot or set of ballots shall be accompanied by instructions for voting by **A**absentee **A**ballot, as prescribed by the Election Commission. These instructions shall include notice to the voter that another absentee ballot will be mailed to the same address of the Registered Voter in the event of a runoff, as provided in § 73 (B) of this Title.
- D. Outer Envelope. Outer Envelope shall be used to return the Absentee **B**ballot to the Cherokee Nation Election Commission Office.

## § 78. Return of Absentee Ballots

- A. A **V**voter shall mark his **or her** ballot in permanent black or blue ball point ink; seal the ballot in the **S**secrecy **E**envelope; fill out completely and sign the **A**affidavit on the front of the **A**affidavit **E**envelope: (i) in the presence of a notary public; or (ii) in the presence of one (1) witness of legal age **who is eighteen (18) years of age or older**, and enclose **attach to the back of the Affidavit Envelope** a copy of a government issued photo identification **of both the Voter and witness**. The affidavit envelope must be: (a) notarized and the notary seal affixed to the affidavit; or (b) signed by the one (1) witness of legal age **who is eighteen (18) years of age or older** and included, an enclosed **attached to the back of the Affidavit Envelope**, a copy of a government issued photo identification **of the Voter and witness** to be counted; and return the documents inside the postage paid return envelope via the United States mail to the Election Commission. Only those absentee ballots which are mailed to the Election Commission and which reach the Election Commission post office box in Tahlequah, Oklahoma, no later than **12:007:00 p.m. noon** on Election Day shall be counted; provided that personal delivery of an absentee ballot shall be accepted during in-person absentee voting as provided in 26 CNCA § 62 (D) of this Title and on **the Saturday of the General Election the Friday before electionthe Thursday before Friday the day before election and election day from 7:00 a.m. to 7:00 p.m.**, only if the voter or person designated by the voter delivers the ballot to the Election Commission Office. Voting in person at a Precinct by a voter who has requested an absentee ballot shall be permitted, however, that voter must cast a challenged ballot to allow the Election Commission to determine whether an absentee ballot

was cast. In the event that a valid absentee ballot was returned by the voter, the challenged ballot will not be counted. In the event that a valid absentee ballot was not returned by a voter, the challenged ballot will be counted.

- B. Cherokee Nation Notary Publics shall not charge a fee for notarizing Cherokee Nation Absentee Ballots. The Election Commission is authorized and directed to reach agreements with the appropriate jurisdictions to ensure free notarization of the ballots to the greatest extent possible.

#### § 79. Handling of Returned Absentee Ballots Generally.

Upon receipt, an All Absentee Ballots shall be placed in a secured Absentee Ballot Box located at the U.S. Post Office. The Absentee Ballots shall be removed from the Post Office and taken to the Election Commission Office by members of the Election Commission or their designees at the appropriate time to be verified and counted for the General Election or Special Election.

#### § 80. Handling of Requested Absentee Ballots Not Received and Spoiled Absentee Ballots.

- A. Should a Voter request an Absentee Ballot and then not receive it, he or she may obtain an Absentee Ballot by contacting the Election Commission Office to inform them that their requested Absentee Ballot was not received. The Election Commission shall send the Election Commission approved a form to the Voter by mail, e-mail, fax or the Voter can pick one up in-person at the Election Commission Office. The Election Commission shall also make the form available on its website. The Voter shall then complete the form to request a replacement Absentee Ballot and submit the request back to the Election Commission. The form can be submitted by mail, email, fax or hand delivery. The Voter must wait seven (7) days from the day the ballots were first mailed before requesting a second Absentee Ballot. No replacement Absentee Ballot shall be mailed after Tuesday Thursday prior to Election Day.
- B. Should a Voter lose, spoil or not receive an Absentee Ballot, he or she may obtain a substitute ballot by submitting a request, on the Election Commission approved form, in writing to the Election Commission Office. Upon request by the voter, the Election Commission shall send a blank approved form for a substitute ballot to the Voter by mail, email, fax or the Voter can pick up an approved form in person at the Election Commission Office. The Election Commission shall also make the approved form to request a substitute ballot available on its website. The Voter shall then fully complete and notarize the approved form to request a substitute ballot and submit the request back to the Election Commission. The fully completed approved form can be submitted by mail, email, fax or hand delivery. After the request is received and verified that they are a Registered Voter and previously requested an Absentee Ballot, the Election Commission Office will send another ballot to the Voter by mail. No

substitute Absentee Ballots shall be mailed after Tuesday prior to Election Day. Should a voter spoil an absentee ballot in his or her effort to mark the same, he or she may obtain a substitute ballot by submitting a request in writing to the Election Commission Office, the form can be received by Fax, e-mail or in person. The request must have sufficient information to properly identify him or herself and request a new ballot. After the request is received and verified the Election Commission Office will send another ballot to the voter by mail.

C. Each Absentee Ballot card shall be considered as a separate ballot for each of the races for each Elected Official and any question presented. Any Spoiled Absentee Ballot cast that is returned spoiled as to one race shall be examined to determine if it was correctly voted as to the other races. If so, it shall be valid as to those races.

**§ 81. Voters Requesting Absentee Ballots at Precincts.**

Voters, who have requested Absentee Ballots, will be identified by the statement "Absentee Ballot Requested" in the signature line in the Precinct Voters Signature Book.

**§ 82. Crediting of Absentee Voters.**

The Election Commission Office will scan the Absentee Envelope bar code for all Absentee Ballots returned in the mail or in-person drop off and shall maintain Voter History credit for each voter who has cast an Absentee Ballot with voting in said General Election or Special Election.

**§ 82 through 90. Reserved.**

**ARTICLE 4. COUNT AND RETURN OF VOTES -  
RECOUNTS AND RUNOFFS**

**§ 91. Processing of Absentee Ballot.**

A. Procedure. No earlier than 8:00 a.m. on the Monday immediately preceding the day of the General Election or Special Election, the Election Commissioners or the Election Commission's designees shall commence examination of the affidavits accompanying the Absentee Ballots. The Ballot Box containing the envelopes containing the affidavits and Absentee Ballots shall be opened and the said envelopes shall be removed. The outer envelope bar code will be scanned on all absentee envelopes and prepared for affidavit verification. For each affidavit verified as meeting the requirements of § 77 of this Title, the affidavit shall be removed and placed in the outer envelope, and

the accompanying secrecy envelopes containing the Absentee Ballots shall be opened and the ballots ran through a secure voting machine into a secured Ballot Box provided the totaling of the voting machine shall not be completed until after the closing of the polls on Election Day. Each ballot rejected due to error(s) in the affidavit shall have a rejection reason attached to the affidavit without being opened. Said rejected affidavits and ballots shall be rejected in Chronicle, and labeled and placed in a separate locked box. The boxes containing the rejected Absentee Ballots shall be maintained at a secure location for two years following the General Election or Special Election. A letter will be generated in Chronicle to the Voter informing them that their ballot did not count and why, and will be transmitted to the Voter when General Election or Special Election is certified.

B. Watchers. Absentee Ballot Watchers selected in accordance with § 53 of this Title shall be present at all times during the processing of the aforementioned Affidavits and the counting of all the Absentee and early Walk-In Absentee Ballots.

**§ 92. Counting; Certificate of Votes and Consolidated Return; Preservation of Materials; Certification of Results.**

A. Counting of Absentee and Early Walk-In Absentee Ballots. The ballots cast in person during Early Walk-In Absentee Voting shall be counted and tallied by the Counting Device. as the votes are cast on the day of the election. Absentee Ballots, which includes all ballots mailed to the U.S. Post Office shall be counted and tallied on Election Day in accordance with this Section 92 of this Title. The Unofficial Certificate of Votes from the aforementioned ballots shall be announced as soon as practical after 7:00 p.m. and posted in accordance with Section 92 (C) . The Unofficial Certificate of Votes shall record the number of ballots cast for each Candidate or proposition and the number of Challenged Ballots. Pursuant to Section 80 (C), any Spoiled Absentee Ballot cast that is returned spoiled as to one race shall be examined to determine if it was correctly voted as to the other races. If so, it shall be valid as to those races and shall be reported on the Official Certificate of Votes.

B. Counting of Precincts. After the processing, count and posting of the Unofficial Results for all Absentee and Early Walk-In Absentee Ballots in conformance with Sections 91 and 92 (A), each Precincts Certificate of Votes shall be immediately posted by the Election Commission as practical after the arrival of the Ballot Boxes from each Precinct. The Certificate of Votes for each Precinct shall record the total number of ballots cast for each Candidate or proposition and the number of Challenged Ballots and Spoiled Ballots.

C. Post of Unofficial Results. Post of Unofficial Results means the immediate posting of Unofficial Certificate of Votes from the Early Walk-In Absentee Ballots, all ballots retrieved from the U.S. Post Office, on the Election Commission website and on the Election Commission windows. Posting of Unofficial Results also means the immediate posting, as soon as practical, of the Unofficial Certificate of Votes from each precinct on the Election Commission website and on the Election Commission

windows.

D. After the Posting of Unofficial Results. After the posting of Unofficial Results for all Absentee, Early Walk-In Absentee and the Precincts, the Election Commission will examine all Challenged Ballots and determine whether they should be counted; and as soon as practical, post the Unofficial Certificate of Votes of the Challenged Ballots in accordance with Section 92 (C).

EB. Precinct Certificate of Votes; Consolidated Return. The Election Commission shall establish the number of printouts of results needed for certification purposes, the procedure for counting of the votes, posting of the results for the Precincts, consolidated return of General Election or Special Election results and posting of such results. These procedures shall be developed and posted by the Election Commission no less than 90 days prior to Election Day.

FC. Preservation of Ballots and Other Election Materials. After the required number of Tally Reports of the vote have been created, the Ballot Box shall be unlocked and all ballots, including the “Spoiled/ and Mutilated Ballot Envelope;” and a copy of the signed Precinct Certificate of Vote and a copy of the electronic results shall be placed in the Ballot Transfer Case. Said Ballot Transfer Case shall be sealed, and the Inspector shall return the Ballot Transfer Case, along with all other election materials and the originals of the Certificate of Vote, forthwith to the Election Commission. The Election Commission shall not disturb anything in the Ballot Transfer Case, and the case shall remain sealed at a secure location designated by and under the control of the Election Commission until opened by order of the Election Commission for recount purposes, or by order of the Supreme Court if necessary in an Election Appeal proceeding filed pursuant to Section 101 of this Title. All ballots and other election materials shall be retained for a minimum period of two years from the date of the election at which they were cast, under the supervision the Election Commission Office; provided that after said two year period, the ballots may be destroyed by order of the Election Commission.

GD. Certification of Results. When the election outcome is final for all elective offices, the Election Commission shall certify the results and make such Certification available to the public.

### § 93. Recounts.

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 (1) percent 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 **S** special **E**lections on **C**onstitutional **A**mendments must be filed with the Election Commission **C**hairperson 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 **A**bsentee **B**allots. 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 **V**oters; 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 owned by the Cherokee Nation, and no Cherokee Nation **O**fficial 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 question, and the number of votes opposed to each Candidate, Initiative Petition or Referendum Petition question. 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.

## § 94. Runoffs.

A. Principal Chief and Deputy Principal Chief. There shall be a Runoff Election for the offices of Principal Chief and Deputy Principal Chief for the two top Candidates in each of the respective offices unless one Candidate for each of the respective positions should obtain a simple majority of votes, comprised of more than fifty (50) percent plus one of the total votes cast for the respective office.

B. Council Districts Seats. In Council Elections there shall be a Runoff Election for the two top Candidates for the particular seat unless one Candidate should obtain a simple majority of votes, comprised of more than fifty (50) percent plus one of the total votes cast for the respective seat.

C. Tied Council Runoff Elections. In any Council Election race where a Runoff Election results in a tie, the final winner shall be selected by lot. The Election Commission Secretary shall, in full view of those present, clearly write or print the name of each Candidate involved in the tie on separate pieces of paper that are identical in color and size and fold each paper so that the names are not visible. The S



secretary shall place the papers in a container selected by the Election Commission. The Election Commission Chairperson or his or her designee shall draw one paper and the name of the Candidate on that paper shall be declared the winner. The Secretary shall then expose the other name or names not drawn to all witnesses present. The drawing shall occur at a public Election Commission meeting in the presence of the Candidates involved or their designees.

§ 95 through 100. Reserved.

## ARTICLE 5.

### CHALLENGES TO ELECTION RESULTS

#### § 101. Procedure for Election Appeals Generally.

- 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 (1) percent 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 **A**absentee **B**ballot voting is alleged, the petition shall also state the specific acts constituting the alleged fraud, and estimated number of fraudulent votes cast by **A**absentee **B**ballot. If the **A**appeal **P**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 **P**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.

## § 102. Conduct of Appeal Hearings.

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 **P**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 **P**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 facsimile transmission 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 Ppetitioner is lawfully entitled to have his or her name appear on the Rrunoff Election Bballot; 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 Ppetitioner 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 a reasonable attorney's fees and all reasonable and proper costs of conducting such contest.

### **§ 103. New Election Where Determination of Contest Impossible.**

In the event that on appeal the Cherokee Nation Supreme Court rules that an election for a particular office or offices is invalid, the Election Commission Chairperson shall notify the Principal Chief of said decision. The Principal Chief shall then order a new election to be held as soon as practical between the same Candidates that participated in the election with the invalidated election results; provided that any Candidate found guilty of fraud shall not be a Candidate in the new election; provided further, that the above shall not apply to elections resulting in tie votes, which elections shall be determined as provided by § 94(C) of this Title.

## **ARTICLE 6.**

### **CRIMINAL AND CIVIL SANCTIONS; ATTORNEY GENERAL**

**§ 104. Election Fraud; Criminal and Civil Sanctions for Violations of this Title.**

- A. **Election Fraud.** Any Candidate or other person who commits Election Fraud shall be deemed to have committed a crime, subject to the criminal and/or civil sanctions provided herein, and shall be referred to the Attorney General of the Cherokee Nation for prosecution as applicable.
- B. **Criminal Sanctions.** Any Candidate or other person who is an Indian Citizen of the Cherokee Nation or a member of any other federally recognized Indian tribe who has violated any provision of this Title deemed to be a crime shall be subject to: (i) prosecution under the Penal Code of the Cherokee Nation and the penalties therein; and/or (ii) disqualification by the Election Commission as provided under § 38 of this Title.
- C. **Civil Damages.** Any Candidate, other person, corporation or other legal entity who or which has violated any provision of this Title deemed a crime shall be subject to a civil penalty of: (i) not less than one hundred dollars (\$100.00) or more than two hundred fifty thousand dollars (\$250,000.00); and/or (ii) an amount of double the value of the unlawful contribution, expenditure, damage as determined by the Cherokee Nation District Court an amount of double the value of the unlawful contribution, expenditure, damage as determined by the Cherokee Nation District Court. Such civil penalty for a violation shall be determined solely by the Election Commission and subject to the appeal process of §102 of this Title. Said civil penalty shall be payable to the Election Commission within six (6) months of the Election Commission's finding of a violation(s). The Election Commission shall be entitled to recover all reasonable attorney's fees and legal costs incurred in any related lawsuit and/or collection of the civil penalty. Any person, corporation or other legal entity who or which has violated any provision of this Title is deemed to have consented to the jurisdiction of the Cherokee Nation and the Cherokee Nation District Court.

**§ 105. Attorney General.**

- A. **Investigations and Prosecutions.** Pursuant to Article VII, Section 13 of the Cherokee Nation Constitution and 51 C.N.C.A. § 105 (B)(14), the Cherokee Nation Attorney General shall be empowered to investigate and prosecute all actions, civil or criminal, relating to civil actions or crimes against or within the jurisdiction of the Cherokee Nation, provided that any such criminal actions shall be investigated in coordination with the Cherokee Nation Marshal Service and/or any federal or local law enforcement agency, as determined by the Cherokee Nation Attorney General.
- B. **Official Opinions of the Attorney General.** Pursuant to 51 C.N.C.A. § 105 (B)(4), the Cherokee Nation Attorney General shall, upon submission of a question of law by the Election Commission, any

member of the Council, the Principal Chief, or the Deputy Principal Chief, give an official opinion that shall have the force of law in Cherokee Nation until a differing opinion or order is entered by a Cherokee Nation Court, [or upon legislative action by the Council](#).

**C. Appearance of Impropriety.** Except as authorized under the Constitution of the Cherokee Nation, neither the Attorney General nor any [Assistant Attorney General](#) shall [may](#) participate in any [make a contribution to a Candidate seeking political office in an election of the Cherokee Nation](#).tribal political campaign or be involved in any Cherokee Nation Tribal political activity, [Provided, that no Cherokee Citizen shall be restricting in](#) except to exercise his or her right as a [Citizen](#) to expressing his or her individual opinion and [or cast exercising](#) his or her right to vote.

**Section 6. Provisions as Cumulative**

The provisions of this Act shall be cumulative to existing law.

**Section 7. Severability**

The provisions of this Act are severable and if any part or provision hereof shall be held void the decision of the Court so holding shall not affect or impair any of the remaining parts or provisions of this act.

**Section 8. Effective Date/Emergency Declared**

It being immediately necessary for the welfare of the Cherokee Nation, the Council hereby declares that an emergency exists, by reason whereof this act shall take effect and be in full force after its passage and approval.

**Section 9. Self-Help Contributions**

To the extent that this Act involves programs or services to [Citizens](#) of the Nation or others, self-help contributions shall be required, unless specifically prohibited by the funding agency, or a waiver is granted due to physical or mental incapacity of the participant to contribute.