



GWY.Ə D.βP  
**CHEROKEE NATION**  
**OFFICE OF THE ATTORNEY GENERAL**  
2<sup>nd</sup> Floor  
215 S. Muskogee Ave.  
Tahlequah, OK 74464-3658  
(918) 453-5000

M. Todd Hembree  
Attorney General

**OPINION OF THE CHEROKEE NATION ATTORNEY GENERAL**

**Question Submitted by:** Cherokee Nation Election Commission Chairperson,  
Shawna Calico

**Opinion Number:** 2017-CNAG-02

**Date Decided:** May 12, 2017

This office has received your request for an official Attorney General Opinion in which you state:

You have asked the Office of the Attorney General for an opinion as to whether a Cherokee Nation citizen who submits a voter registration form on the last day to register for the 2017 General Election should be considered a registered voter when the Election Commission (“Commission”) did not have sufficient time prior to the expiration of the registration deadline to determine which district the voter resides.

For the reasons set forth the below, it is the official opinion of the Attorney General that a Cherokee Nation citizen who submits an otherwise complete voter registration form no later than the last business day in March of the election year shall be considered a registered voter even if the Commission is unable to determine the citizen’s voting district until after the voter registration deadline.

**BACKGROUND**

As we understand it, on March 31, 2017, the last day to register for the 2017 General Election, the Commission received a voter registration form listing a rural route address. According to the Commission, it was unable to determine the Cherokee citizen’s voting district

because the form did not contain sufficient driving directions to the citizen's address. We understand further that, because the Commission was not able to contact the citizen prior to 11:59 p.m. on the 31<sup>st</sup>, the Commission was not able to determine the citizen's voting district prior to the deadline to register to vote. The Commission was, however, eventually able to determine the citizen's voter district sometime after March 31<sup>st</sup>. The Commission now asks whether this citizen should be considered a registered voter for the 2017 General Election.

### ANALYSIS & DISCUSSION

The Cherokee Nation Election Code ("Election Code") is codified at Title 26 of the Cherokee Nation Code Annotated, with its most recent amendments enacted pursuant to Legislative Act 12-16 and signed into law by the Principal Chief on May 18, 2016. The Election Code is the controlling law for the conduct of all Cherokee Nation elections for Principal Chief, Deputy Chief, Tribal Council, Constitutional amendments, initiatives and referenda of the Cherokee Nation.<sup>1</sup> The voter registration process is set forth in Chapter 3 of the Election Code, "Qualifications and Registration of Voters." Section 21, "Eligibility to Vote" provides, among other requirements, that "[a] person shall be registered to vote no later than the last business day in March of the election year."<sup>2</sup> Section 21, provides further,

D. Voter Address. Voters giving a Post Office Box Address or 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.<sup>3</sup>

Where "the terms of the statute are clear and unambiguous, the inquiry ends and we simply give effect to the plain language of the statute."<sup>4</sup> Indeed, it is and ought to be a very rare and highly unusual thing for the courts or the Attorney General to dismiss the results dictated by

---

<sup>1</sup> 26 C.N.C.A (2016) § 1.

<sup>2</sup> 26 C.N.C.A. (2016) § 21(A)(2).

<sup>3</sup> 26 C.N.C.A. (2016) § 21(D).

<sup>4</sup> *United States v. Sprenger*, 625 F.3d 1305, 1307 (10th Cir. 2010) (internal quotation mark omitted).


the Tribal Council's plain statutory command. In this instance, neither Section 21, nor any other provision in the Election Code provides that the Election Commission must be able to determine a citizen's voting district no later than the last business day in March of the election year. The Election Code is equally as silent as to the consequence if the Election Commission is unable to determine a citizen's voting district all together, let alone if the Election Commission cannot make the determination prior to the expiration of the registration deadline.

In the Cherokee Nation, the right to vote is a fundamental right.<sup>5</sup> As our Office opined in 2015-CNAG-03, the Cherokee Nation has long recognized the fundamental nature of this right and should continue to afford its citizenry the broadest protections when exercising this right. Our office will not find an additional requirement to vote when one does not exist expressly in the Election Code. For these reasons, the Election Commission must consider the Cherokee Nation citizen who submitted a voter registration form on the last day to register for the 2017 General Election a registered voter despite the fact that the Commission did not have sufficient time prior to the expiration of the registration deadline to determine which district the voter resided.

**IT IS THEREFORE THE OFFICIAL OPINION OF THE ATTORNEY GENERAL:**

1. A Cherokee Nation citizen who submits an otherwise complete voter registration form no later than the last business day in March of the election year shall be considered a registered voter even if the Commission is unable to determine the citizen's voting district until after the voter registration deadline.

*Pursuant to Title 51, § 105(B)(4), this Opinion, 2017-CNAG-02, shall therefore have the force and effect of law in the Cherokee Nation until a different opinion or order is entered by the Cherokee Nation Court.*

  
\_\_\_\_\_  
Todd Hembree  
Attorney General

---

<sup>5</sup> See *Cornsilk v. Tribal Council*, JAT-96-15.