



**CHEROKEE NATION**  
**OFFICE OF THE ATTORNEY GENERAL**  
P.O. Box 948  
Tahlequah, OK 74465-0948  
918-453-5000  
Fax No. 918-458-5099

Sr. Assistant Attorneys General  
Nason Morton  
Linda Susan Work

Assistant Attorneys General  
Sara Hill  
Dana Jim  
N. Cheryl Hamby  
Elizabeth Odell  
Chrissi Nimmo  
Cynthia Burlison  
Robert Garcia

**A. Diane Hammons**  
**Attorney General**

**OPINION OF THE CHEROKEE NATION ATTORNEY GENERAL**

**Question Submitted by:** Meredith Frailey, Cherokee Nation Tribal Council

**Opinion Number:** 2010-CNAG-02

**Date Decided:** May 25, 2010

To: Meredith Frailey, Cherokee Nation Tribal Council

From: A. Diane Hammons, Attorney General for the Cherokee Nation

This office has received your request for an Attorney General's Opinion asking, in effect, the following question:

- 1. May Tribal Council Members, who already receive a "vehicle allowance" to cover in district travel, be legally reimbursed for "total miles" when traveling out of district from a departure point within the Tribal Council Member's "home" district?**

**Answer and Analysis:**

The Tribal Council policy for "Reimbursing Business Travel Expenses" was passed pursuant to LA-05-09 which authorized the Tribal Council to "develop internal polices and procedures for reimbursement of mileage and travel expenses" and became effective on April 13, 2009.

The Tribal Counsel Policy states:

“In addition to the reimbursement authorized by law, Council of the Cherokee Nation members shall be entitled to a vehicle allowance in the amount of Five Hundred Dollars (\$500.00) per month. This vehicle allowance is to allow Tribal Council members to attend meetings and conduct Tribal business within the boundaries of their respective district or, for At Large Councilors, within 40 miles one-way of their home.

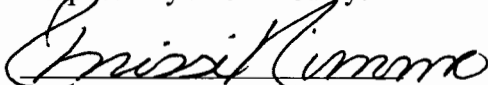
Council of the Cherokee Nation members attending meetings outside of the jurisdictional boundaries of their respective district or, for At Large Councilors, more than 40 miles one-way of their home shall be entitled to reimbursement for total miles driven for the trip.”

The policy specifically states that Tribal Council Members can be reimbursed for actual mileage for out of district travel, and there is no law that would prohibit reimbursement for this travel, in addition to the “vehicle allowance.” However, it seems patently unfair to pay the Tribal Council Member a “vehicle allowance” that covers all “business” within the “boundaries” of the Tribal Council Member’s district, and then allow a Tribal Council Member to claim

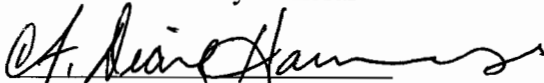
reimbursement for actual mileage traveled when part of that mileage originated within the boundaries of his/her jurisdiction. It seems that the portion of the “total miles” for out of district travel that occurs within the district should already be covered by the “vehicle allowance.”

The portion of the Travel Policy that covers the reimbursement of “total miles” (including those within the Tribal Council Member’s home district) is not illegal per se, because The Cherokee Nation Constitution, Article VI, Sections 2 and 7, allows the Tribal Council to pass laws and establish polices for travel expenses. However, it is the opinion of the Attorney General that in order to negate the appearance of impropriety, the Tribal Council should amend the Travel Policy to reimburse only that “actual mileage” that occurs outside of a Tribal Council Member’s jurisdictional boundaries. Nonetheless, because the mileage reimbursement policy, as written, is legal, the opinion of the Attorney General that the Tribal Council change the Policy is merely a suggestion, and not binding legal authority.

Respectfully Submitted by:



Chrissi Nimmo  
Assistant Attorney General



A. Diane Hammons  
Attorney General for the Cherokee Nation