



CHEROKEE NATION
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OPINION OF THE CHEROKEE NATION ATTORNEY GENERAL

Question Submitted by: District 14 Tribal Councilor Kevin Easley, Jr.
Opinion Number: 2025-CNAG-01
Date Issued: May 28, 2025

You have asked for an opinion answering the following question:

Whether Article VII, Sections 2 and 3 of the Cherokee Nation Constitution prohibits a member of the Council of the Cherokee Nation, elected at-large, from serving as Speaker of the Council.

ANSWER AND ANALYSIS

Short Answer:

No, a member of the Council of the Cherokee Nation who is elected at-large is not prohibited from serving as Speaker of the Council under Article VII, Sections 2 and 3 of the Cherokee Nation Constitution.

Background:

Article VII of the Cherokee Nation Constitution governs the executive powers of the Nation. Section 2 specifically addresses the eligibility requirements to seek the elective office of Principal Chief of the Cherokee Nation. Similarly, Section 3 establishes the eligibility requirements to seek the elective office of Deputy Principal Chief of the Cherokee Nation.

Analysis:

Candidacy for public office in the Cherokee Nation is governed by constitutional, statutory, and procedural conditions. The act of assuming public office through the constitutionally mandated succession process is governed separately. Councilor Easley's request therefore requires

clarification between the qualifications to run for office and the qualifications to temporarily assume office through the established chain of succession.

To seek the elective office of Principal Chief or Deputy Principal Chief, candidates must meet specific qualifications to appear on the ballot submitted to Cherokee voters. *See* Cherokee Nation Const., Art. VII, Sec. 2, 3. Among the qualifications is a domiciliary requirement directing:

The Principal Chief of the Cherokee Nation . . . shall be domiciled within the boundaries of the Cherokee Nation for no less than 270 days immediately preceding the day of general election in which he or she seeks election. . .

Cherokee Nation Const., Art. VII, Sec. 2. Under the plain language of the provision, the domicile requirement is entirely premised on the occurrence of an election being held.

First, the provision establishes a timeframe in which a candidate for Principal Chief or Deputy Principal Chief must establish his or her domicile within the boundaries of the Cherokee Nation. That timeframe is unequivocally connected to the date of the general election. Next, the provision establishes that that the general election which dictates commencement of the timeframe must be the general election “in which he or she seeks election.” Without a scheduled general election date, there is no period to calculate and as a result, no domiciliary requirement to satisfy.

An analysis of Article VII, Section 3 reaches the same result. The same provides:

The registered voters shall elect a Deputy Principal Chief, who shall possess the same qualifications as the Principal Chief, for a term of four (4) years at the same time and in the same manner as herein provided for the election of the Principal Chief.

Cherokee Nation Const., Art. VII, Sec. 3.

The plain language of Section 3 again demonstrates that the Deputy Principal Chief, at the time of his or her *election by the registered voters*, “shall possess the same qualifications as the Principal Chief.” *Id.* The provision additionally establishes that the Deputy Principal Chief shall be elected “for a term of four (4) years at the same time and in the same manner as herein provided

for the election of the Principal Chief.” *Id.* This conclusively determines that the Deputy Principal Chief is elected in a general election, at the same time the Principal Chief is elected. The framers’ intent is clear once more; the domicile requirement is meant to apply to candidates at the time they seek office in a general election.

The succession process serves a distinctly different purpose which is wholly separate from the established qualifications to seek office. Article VII, Section 4 designates the rule of succession in the Cherokee Nation, providing:

In case of the absence of the Principal Chief from office due to death, resignation, removal or inability to discharge the powers and duties of the office, the same shall devolve upon the Deputy Principal Chief for the remaining portion of the four (4) year term to which the Principal Chief had been elected. In case of disability, such powers shall continue during the term of such disability.

In the event of the death, resignation, or removal of the Deputy Principal Chief, or his or her inability to discharge the powers and duties of the office, the person who is then the Speaker of the Council shall succeed to the office of the Deputy Principal Chief for the balance of the term. In the case of temporary disability, said person shall serve as Acting Deputy Principal Chief for the duration of the disability and thereafter shall reassume the office of Speaker.


Cherokee Nation Const., Art. VII, Sec. 4. Of specific note to the inquiry here, is the role of the Speaker of the Council. Pursuant to Article VI, Section 2 of the Constitution, the Council “shall elect a Speaker and a Deputy Speaker *from its own membership.*” *Id.* (Emphasis added). Upon his or her election from the Council membership, “[t]he Speaker shall be third in line of succession to serve as Acting Principal Chief in case of removal, death, resignation or disability of both the Principal Chief and Deputy Principal Chief until the disability be removed or a successor shall be elected.” Cherokee Nation Const., Art. VI, Sec. 2. Under the plain language of the Constitution, the Council is allowed to elect its Speaker from its membership, which consists of all seventeen (17) members. *Id.* at Sec. 3. Moreover, the line of succession serves to provide an “acting” Principal Chief in the event of emergent circumstance to maintain continuity of the Nation’s

government. In the event succession is triggered, by definition, there can be no election to prompt issues of candidacy or any related qualifications.

Indeed, the framers' express language allowing for an At-Large Councilor to be elected as Speaker of the Council indicates that they did not intend for the qualifications relating to candidacy to bar the potential election of a Speaker. By plainly providing for the eligibility of At-Large Councilors—who must reside outside the Nation's boundaries by law—to serve as Speaker, the framers necessarily excluded the application of candidacy qualifications to prevent frustrating the line of succession. Therefore, the requirement to satisfy those constitutional eligibility conditions of candidacy—such as residency—applies specifically to individuals seeking elections. It does not extend to the Speaker of the Council who may temporarily assume the duties of the Offices of Principal Chief or Deputy Principal Chief through the constitutionally established succession process in the event of vacancy or incapacity.

IT IS THEREFORE, THE OFFICIAL OPINION OF THE ATTORNEY GENERAL THAT:

1. Under the laws of the Cherokee Nation, eligibility to seek the Offices of Principal Chief or Deputy Principal Chief is distinct from the eligibility to assume the same under the line of succession.
2. A member of the Council of the Cherokee Nation who is elected at-large is not prohibited from serving as Speaker of the Council under Article VII, Sections 2 and 3 of the Cherokee Nation Constitution.



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