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**CHEROKEE NATION GAMING COMMISSION**  
**RULES AND REGULATIONS**

<b>CHAPTER:</b>	<b>Gaming Dispute Resolution</b>	<b>CHAPTER #:</b>	<b>VIII</b>
<b>SUBJECT:</b>	<b>Promotional Activity Prize Claim</b>	<b>SECTION –SUBSECTION:</b>	<b>D</b>
<b>EFFECTIVE DATE:</b>		<b>SUPERSEDES MATERIAL DATED:</b>	
<b>APPROVED BY:</b>		<b>DATE:</b>	

**PURPOSE**

The purpose of this Section is to ensure that patrons are afforded due process in seeking resolution to a dispute arising in connection with promotional activity offered by a gaming facility licensed by the Cherokee Nation Gaming Commission.

**SCOPE**

The provisions of this Section shall apply to disputes between gaming patrons concerning marketing and/or other promotional activity, whether or not it is connected to gaming activity, and gaming operations that are subject to the jurisdiction of Cherokee Nation Gaming Commission (CNGC).

**AUTHORITY**

- Title 4 § 20 CNCA
- Title 4 § 22 CNCA
- Title 4 § 28 CNCA
- 25 CFR 522.2
- 25 CFR 543.12
- Tribal-State Compact Part 5 (A)
- Tribal-State Compact Part 6 (B)

**A. DEFINITIONS**

1. Enterprise – The entity conducting gaming operations on behalf of or as authorized by the Cherokee Nation.
2. Cherokee Nation Gaming Commission (CNGC) – The regulatory body established by the Cherokee Nation to oversee and regulate the conduct of gaming on lands owned by the Cherokee Nation.



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3. Gaming Activity – Event that is the cause or subject of protest and/or allegation of liability against the enterprise. This definition also covers requests for refunds associated with gaming activities.
4. Senior/Executive Management – The designee authorized to reach a final decision on behalf of the enterprise/gaming operation facility.
5. Management Official – The Enterprise employee authorized to review claims and render a decision on a patron’s initial prize claim.
6. Prize Claim – A complaint related to: game play resulting in disagreement on behalf of the patron in the amount of any prize which has been awarded; the failure to be awarded a prize through gaming or; the right to receive a refund or other compensation subject to management review and/or investigation.
7. Prize Claim Dispute – Unresolved prize claim or a decision made by the enterprise in reference to a prize claim in which the validity of such is questioned by a patron, thus, requiring further review.
8. Prize Limit – The maximum amount of any prize claim shall be the amount of the prize which the claimant establishes he/she was entitled to be awarded.
9. Promotional Activity – An event marketed by a gaming facility using advertisements, special events, or endorsements wherein incentives (e.g. discounts, free items, a contest for prizes, or a tournament) are offered to gaming patrons.

**B. NO CAUSE OF ACTION CREATED**

Provisions of this Section or of any other Chapter of these Rules and Regulations shall not create a cause of action against any gaming operation, gaming employee, the Cherokee Nation, or the CNGC.



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**C. CLAIMS PROCESS**

1. A patron may initiate a claim by notifying casino personnel of the event for which payment is being sought.
2. Claims will be primarily handled through a process set forth by the enterprise as approved by the CNGC.
3. The Management Official receiving the claim shall investigate information available to render a decision within seventy-two (72) hours.
4. After considering the information available, the Management Official shall inform the patron of his/her decision in writing, which shall be consistent with all applicable rules, terms and conditions relating to the claim.
5. The Management Official cannot reasonably reach a decision within seventy (72) hours, the Management Official may request from the patron an extension of time in which to render a decision. The extension request must be provided to the patron in writing and specify the reason(s) why additional time is necessary. If the patron agrees, he/she must sign the extension request, which shall be for no more than thirty (30) calendar days from the date the claim was filed. A copy of the signed extension must be provided to the CNGC within forty-eight (48) hours of receipt by the Management Official.
6. Should the patron disagree with the decision rendered by the Management Official, the Management Official shall inform the patron of the Dispute Resolution Process and provide the patron with notice of the patron’s rights and responsibilities. Notice shall be on a form approved by the CNGC that shall set forth the address of Senior/Executive Management where a dispute may be filed.
7. A copy of the dispute notice shall be maintained by management and provided to the CNGC within forty-eight (48) hours.



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**D. FILING A DISPUTE**

1. A patron may dispute a decision of a Management Official by filing a written dispute with Senior/Executive Management within ten (10) calendar days of the denial of their claim or from the date of the occurrence, whichever is later. Failure by the patron to file the dispute within this timeframe shall bar further review.
2. The dispute must set forth the patron’s full name, address, telephone number (if any), and email address (if any), as well as the full name, address, telephone number and email address (if any) of any representative authorized to act or settle the claim on behalf of the patron.
3. The dispute must contain all information and/or documentation available to the patron on a form provided by Senior/Executive Management, as approved by the CNGC.
4. Senior/Executive Management shall have seventy-two (72) hours after receipt of the dispute in which to render a decision based on a fair and objective review of all available evidence, in accordance with house and game rules.
5. The decision of Senior/Executive Management shall be in writing and shall be hand-delivered (with a witness present) or sent via certified mail to the patron or their authorized agent and the CNGC. The decision must contain a clear statement of the decision and of the reason(s) and/or considerations supporting such.
6. Compensation, if so awarded, may not exceed the amount of the claim or prize limit.



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7. A copy of the Gaming Dispute Procedures outlining all appeal procedures adopted by the CNGC, in compliance with this section, shall be enclosed with the decision.
8. Notice of Senior/Executive Management’s decision shall be deemed served should the patron refuse delivery. Proof of delivery or refusal shall be provided to the CNGC within forty-eight (48) hours of receipt by the enterprise.

**E. APPEAL TO THE CNGC**

1. A patron may file an appeal of Senior/Executive Management’s decision by filing a Petition for Review within fifteen (15) calendar days after receipt of the decision of Senior/Executive Management. Failure by a patron to file an appeal within this timeframe shall render Senior/Executive Management’s decision final and binding on the patron.
2. A Petition for Review sent via First Class Mail shall be considered timely filed if postmarked prior to the expiration of the fifteen (15) calendar-day period. Petitions for Review that are not filed within the time provided for in this section shall be summarily dismissed, unless the CNGC determines that Senior/Executive Management failed to timely inform the patron of the deadline for petitioning to the CNGC. Requests for extensions of time to file the Petition for Review may be granted at the discretion of the CNGC.
3. Decisions of Senior/Executive Management are subject to review by the CNGC only when the following requirements have been met:
  - a. The claimant delivered a valid, timely, written prize claim dispute notice to the enterprise pursuant to section D (1) of this section;
  - b. The prize claim has been denied by Senior/Executive Management, and;



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- c. The Petition for Review was filed with CNGC within fifteen (15) days of receipt of Senior/Executive Management’s decision.
4. A dispute shall not be subject to direct review by CNGC; provided, however, if the CNGC determines that the Management Official and/or Senior/Executive Management did not make dispute resolution procedures and/or forms available to the patron, a dispute may then be reviewed by the CNGC in accordance with the rules of this section. The CNGC’s decision to hear such a dispute shall be irrespective of the deadlines contained in sections 1, 2, and 3 above.
5. The CNGC shall not consider any issues contained in the Petition for Review that were not first presented to the Management Official and/or Senior/Executive Management.
6. The Petition for Review shall be signed by the patron and submitted to the CNGC, and shall set forth:
  - a. The patron’s name, address, telephone number and email address (if any), as well as the full name, address, telephone number and email address (if any) for any representative authorized to act or settle the claim on behalf of the patron;
  - b. A statement of the facts and circumstances giving rise to the dispute;
  - c. A copy of Gaming Management’s decision and a statement of why the decision was erroneous;
  - d. Copies of any pertinent documents, affidavits, or statements of witnesses that were presented to Senior/Executive Management in support of the patron’s position shall be submitted with the Petition for Review, and;
  - e. A description of the relief sought.



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7. Upon receipt of a timely filed Petition for Review, the CNGC shall notify Senior/Executive Management and request copies of Senior/Executive Managements’ decision and any reports, evidence, or other materials considered by Senior/Executive Management in reaching its decision.
  
8. At any time after the filing of the Petition for Review, the CNGC, in its discretion, may order the parties to submit additional writings, statements, records, books, exhibits, documents or other tangible things relevant to the issues raised in the Petition for Review. CNGC may, in its discretion, conduct its own inquiry into the allegations by requesting additional statements from witnesses or inspecting gaming facilities. The Rules of Evidence shall not apply to review proceedings unless the CNGC orders otherwise.
  
9. Within ten (10) calendar days of receipt of a copy of the Petition for Review, the gaming facility may file a response as well as any counter-affidavits or statements of witnesses in support of its position.
  
10. Copies of the Petition for Review, any subsequent motions and documents filed by either party with the CNGC shall be mailed to all other parties involved in the case.

**F. REPRESENTATION BY COUNSEL**

1. In proceedings before the CNGC, the patron and/or the gaming facility may appear pro se or through an attorney admitted to practice before the courts of Cherokee Nation, provided the attorney has filed an entry of appearance no less than five (5) days before a hearing with a copy of same contemporaneously mailed to the other party.
  
2. In all cases under this Chapter, the parties to review proceedings before the CNGC shall bear their own respective costs and attorney’s fees, regardless of which party may prevail.



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**G. HEARINGS**

1. CNGC’s participation in the dispute resolution process hereunder shall be limited to a determination of whether the Management Official or Senior/Executive Management fairly applied all applicable rules, terms and conditions to facts proved with substantial evidence. CNGC shall not conduct trials de novo and any hearings it may order shall be for the limited purpose of determining the fairness of Senior/Executive Management’s decision. Accordingly, unless the CNGC, in its sole discretion, orders otherwise, issues raised in the Petition for Review shall be decided without hearings or oral testimony of the parties or witnesses, but instead shall be decided on the basis of the documents, written statements, reports and/or other tangible things submitted by the parties and considered by Management. Documents and materials not considered by the Management Official or Senior/Executive Management will not be reviewed by the CNGC unless the CNGC, in its discretion, determines that the dispute would not be fairly resolved without considering such documents or materials.
  
2. The CNGC’s decision shall be in writing and copies of same shall be mailed to the parties via certified mail, return receipt requested. In its decision, the CNGC shall determine whether the decision of Senior/Executive Management was based on substantial evidence and whether Management fairly applied applicable rules, terms and conditions posted at the facility when the dispute arose. The CNGC may affirm, reverse, or modify Management’s decision, or remand the dispute to Senior/Executive Management for further action.

**H. APPEAL OF CNGC DECISION**

1. The CNGC’s decision shall state that the decision may be appealed to the Cherokee Nation District Court within thirty (30) calendar days of the receipt of the CNGC’s decision, or the decision will become final without further right of review.



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2. The appeal is initiated by the patron by filing a Notice of Appeal with the Cherokee Nation District Court which shall contain a statement of the grounds for the appeal.
3. Should the patron disagree with the decision of the Cherokee Nation District Court, he/she may appeal the decision to the Cherokee Nation Supreme Court by filing a written appeal within thirty (30) days of receipt of the District Court’s decision. Failure to file an appeal within this timeframe will render the District Court’s decision final without further right of review.
4. The decision of the Supreme Court will be final and binding.

**I. REPORTING REQUIREMENTS**

1. An electronic report of all claims and disputes must be maintained by the Enterprise in a format approved by the CNGC and must permit the data to be queried by:
  - a. Facility name;
  - b. Vendor, if applicable;
  - c. Claim type (e.g. gaming machine, tournament, refund)
  - d. Machine number, if applicable;
  - e. Claim/dispute amount;
  - f. Claim/dispute status;
  - g. Date of claim/dispute occurrence;
  - h. Date filed;



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- i. Date of approval/denial;
  - j. Description of any pertinent documents received by patron, satisfaction of reporting requirements to the patron and the CNGC by date, if such reporting is required by this section.
2. All claims/disputes shall be referenced by a control number within this report.
  3. The claims/disputes report shall be provided to the CNGC upon request.

**J. PENALTIES**

In the event that the CNGC finds reasonable evidence that management failed to comply with any provision of this chapter, the CNGC may take action on the gaming license(s) of management personnel found to be in violation of this regulation and/or assess a fine in accordance with CNGC Regulations contained in Chapter X Sections B and C and any other applicable regulation.