

COURT OF APPEALS

Cathy L. Metoxen,

Appellant,

Case #: 17-AC-007

v.

Date: June 14, 2017

Oneida Election Board,

Respondent.

DECISION AND ORDER

This matter has come before Appellate Judges Chad Hendricks, Carole Liggins, pro tempore and Stan Webster, pro tempore. Pursuant to Chapters 801, 801.1-1, 801.1-2, 805.1-1, 805.1-2, and 805.4-1, this appeal was accepted for review by this court.

BACKGROUND

Appellant Cathy L. Metoxen (hereinafter “Metoxen”) appeals a decision of the Oneida Election Board (hereinafter “Election Board”) declaring her ineligible to be placed on the ballot as a candidate for the position of Business Committee Vice-Chairperson. Metoxen submitted applications to run for both the Vice-Chairperson and Trust Enrollment Committee for the Oneida Nation’s General Elections scheduled on July 8, 2017. Chapter 102 of the Oneida Election Law, §102.6-4 states that:

A person that runs for a position on the Oneida Business Committee, or a position on a judicial court or commission, shall not run for more than one (1) elective office or seat per election.

On April 3, 2017, the Election Board took the initiative to place calls to several of the applicants for the Business Committee who were not in compliance with §102.6-4. The applicants were given until 4:30 p.m. on April 6, 2017 to inform the Election Board of which position they wished to be placed on the ballot as a candidate. Metoxen and one other applicant did not respond by the deadline imposed by the Election Board. On April 6, 2017, the Election Board

then made the decision to place another phone call to Metoxen and the other applicant regarding which position they preferred to be placed on the ballot for.

After receiving no response, Metoxen was notified from the Election Board by phone that her failure to respond within the established timeframes made her ineligible as a candidate for the 2017 General Election. Metoxen appealed the Election Board's decision and a hearing was held on April 18, 2017. After the hearing, the Election Board held that because Metoxen had not complied with the provisions of §102.6-4, she was ineligible for placement on the ballot in the 2017 General Election.

Metoxen filed a perfected Notice of Appeal with the Court of Appeals on May 18, 2017, for a judgment directing the Election Board to place her name on the 2017 General Election ballot for the position of Business Committee Vice-Chairperson. After reviewing the Notice of Appeal and the Election Board's decision, there are several questions that remain. Due to the consequences of an accelerated schedule in an appeal from a decision of the Election Board, it is determined that any questions that remain mitigate in favor of Metoxen having her name placed on the ballot as a candidate for Business Committee Vice-Chairperson. The Oneida Judiciary law admonishes the court to apply the rules liberally to ensure “. . . a speedy, fair and inexpensive determination of every appeal.”

ANALYSIS

In its decision, the Election Board concluded that:

[Metoxen] has not complied with the provisions of the Oneida Nation's Election Law, [§]102.6-4. The formal action of the Election Board of April 6, 2017, which has deemed [Metoxen] ineligible for the two (2) positions applied for within the 2017, General Election i.e., Business Committee Vice Chairperson and Trust Enrollment committee is hereby upheld.

As stated above, §102.6-4 of the Oneida Election Law states that any person who runs for a position on the Oneida Business Committee shall not run for more than one (1) elective office or seat per election. However, the statute is silent as to whether a person has the opportunity to cure any defects and, if so, how much time is afforded to cure such defects. Furthermore, the statute says nothing about disqualifying a candidate from the election entirely who runs for more than one elective office.

The Election Board took it upon themselves to place a phone call notifying the candidates who were not in compliance with §102.6-4 that they had *three (3)* days to declare their candidacy, (emphasis added). These actions by the Board, in themselves, are in error with §102.5-6 which provides for only two (2) manners of notice, “certified mail or hand delivery within two (2) business days.” When the three-day deadline had passed, the Election Board then made the decision to place another call to the two candidates, including Metoxen, who did not comply with §102.6-4. While there must be strict compliance with statutory commands in the Election Law, we conclude from the record and the Decision being appealed that the Election Board did not properly apply with the notice provision of §102.5-6 or with the statutory requirements of §102.6-4.

The decision by the Election Board failed to set forth facts in support of their conclusions, particularly as they relate to their decision to declare Metoxen ineligible for candidacy in the 2017 General Election. The Election Board did not address:

1. The process it followed when it arrived at the three-day deadline.
2. Whether all candidates were treated equally.

Turning to the merits of Metoxen’s petition, her appeal is replete with unsubstantiated legal conclusions entitling her to relief. Nor does she plead facts supporting her legal conclusions as required by §805.5-2(c)(3). Simply restating a cause of action is not enough to make a claim that a person is entitled to relief.

Yet despite the flaws in Metoxen’s appeal, the Election Board has provided no basis to disqualify Metoxen under Election Law §102.6-4. There is nothing in §102.6-4 that states a candidate who runs for more than one elective office is disqualified. Furthermore, there is nothing in the statute that states if a person can cure any defects and, if so, how much time a candidate has to cure any defects with exception of the notice provisions referred to above. The Election Board provided no reasoning in its decision as to how it arrived at the three-day deadline to respond. This is not to say the three-day deadline imposed by the Election Board is unreasonable only that it deviates from the requirements of §102.5-6. Finally, this court concludes that the Election Board failed to provide sufficient reasons in its decision as to how it arrived at its determination to disqualify Metoxen.

We also do not hold that a candidate can carelessly fail to follow the requests of the Election Board without penalty. However, in this instance, without more information from the Election Board, Metoxen's failure to notify the Election Board within the three-day period is not proven as fatal. Without more information and time, we hereby rule that the most equitable standard to follow is based upon the admonitions of Chapters 801 and 805 of the Oneida Code of Laws: To apply Tribal law, custom, and common sense liberally to ensure speedy, fair, and, inexpensive determination of every appeal.

CONCLUSION

Based upon the foregoing and pursuant to §805.13-1(b), the Court of Appeals hereby VACATES the April 19, 2017 Oneida Election Board Decision and ORDERS the Election Board to place Metoxen on the Oneida General Election ballot as a candidate for the Business Committee Vice-Chairperson.

This Decision and Order is issued pursuant to the authority vested in the Oneida Judiciary, Court of Appeals, Oneida General Tribal Council Resolutions 01-07-13-B and 3-19-17A, and the Oneida Code of Laws, dated this 14th day of June 2017, in the matter of Case No. 17-AC-007, *Cathy L. Metoxen vs. Oneida Election Board*.

It is so ordered.