

COURT OF APPEALS

Gina Buenrostro,
Appellant,

Case No.: 21-AC-007

v.

Date: July 2, 2021

Oneida Election Board,
Respondents.

INITIAL REVIEW DECISION

Reviewing Appellate Judges: Appellate Judges Diane House and Chad Hendricks, and Chief Appellate Judge Patricia Garvey.

BACKGROUND

The Appellant, Gina Buenrostro (hereinafter “Buenrostro”), filed an application to run as a candidate for the Legal Resource Center Advocate position in the upcoming 2021 special election. On June 8, 2021, the Election Board determined Buenrostro was ineligible for candidacy for this position as she did not meet the eligibility requirements of Legal Resource Center §811.6-1(b).

On June 15, 2021, Buenrostro filed an appeal with the Election Board. On June 16, 2021, the Oneida Election Board held a hearing on her appeal. On June 18, 2021, the Oneida Election Board determined that Buenrostro did not comply with the education requirements of §811.6-1(b), and as a result was still ineligible for candidacy. On June 30, 2021, Buenrostro filed a Notice of Appeal with this Court.

DECISION

After review of the information contained in the Notice of Appeal and the decision of the Oneida Election Board as the original hearing body, it is determined that pursuant to the Judiciary Law §801.8-4, Buenrostro has not sufficiently alleged that the Election Board's decision:

1. Violates applicable provisions of the Constitution;
2. Violates provisions, substantive or procedural, of applicable Tribal law or applicable federal law;
3. Is an administrative decision that is arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with applicable law; or
4. Is not supported by the substantial evidence on the record taken as a whole.

Buenrostro asserts that the Election Board made an erroneous interpretation of the eligibility requirements of the Legal Resource Center §811.6-1(b). Buenrostro asserts that a degree is not needed to meet this requirement and that her past advocate experience makes her qualified under §811.6-1 (c). This is incorrect.

Under §811.6-1 *Qualifications*, there are four requirements listed as (a)-(d) that need to be met for candidate eligibility. Interpretation of both §811.6-1 (b) and (c) are determinative of this matter. Subsection (c) requires at least two years of experience in litigation, negotiation, or advocacy and/or equivalent combination of education and experience in these subjects. In addition to this experience requirement in (c), Subsection (b) requires either a juris doctor degree, doctor of philosophy degree, a master's degree or bachelor's or associate degree (in the fields listed). The degree requirements may be varied, but the candidate must hold one of the degrees listed and provide proof of this degree to the Election Board to be eligible to run for the Advocate position. The Election Board found that Buenrostro failed to provide proof of her education or degree and determined her ineligible for candidacy.

Oneida Judiciary Law §801.8-3 (a) (1) limits our review to matters of record in the case. This finding that Buenrostro did not meet the educational requirements of §811.6-1 (b) is supported by

the evidence presented at the Election Board hearing held on June 16, 2021. We cannot reject this finding of fact made by the Election Board. Therefore, this case is denied for appellate review. As this Court is not accepting this appeal, the other issues presented in Buenrostro's Notice of Appeal will not be addressed in this decision.

By the authority vested in the Oneida Judiciary, Court of Appeals, in Oneida General Tribal Council Resolutions 01-07-13-B and 03-19-17-A, this appeal is hereby **DENIED** for review. Dated this 2nd day of July 2021. In the matter of Case Number 21-AC-007, *Gina Buenrostro v. Oneida Election Board*.

It is so ordered.