

ISEMINGER, C.J., delivered the opinion of the Council, in which, FRASER, A.C.J., and CLEMM, DATTA, WIENER, LIN, BOWSER, and WITTWER J.J. joined.

## **THE ALL-CAMPUS JUDICIAL COUNCIL OF THE UNIVERSITY OF ROCHESTER STUDENTS' ASSOCIATION**

JOHNATHAN FUENTES v. SENATE ELECTIONS COMMITTEE, TOM HAYES CHAIR

[March 26, 2005]

CHIEF JUSTICE Iseminger delivered the opinion of the Council.

### **I**

The Petitioner, Johnathan Fuentes, a member of the Class of 2008, appeals the decision of the Senate Elections Committee denying him the ability to have his name placed on the Spring 2005 Election ballot for a 2008 Senate seat. Tom Hayes, Chair of the Elections Committee, claims the committee did not violate any election bylaws or the Students' Association Constitution in its decision to deny the Petitioner a place on the ballot.

### **II**

The Student Association's Elections Committee held three informational meetings and a required candidate declaration meeting. Informational meetings were advertised in several ways. First, President Nabozny sent two emails to University class list-serves on March 4<sup>th</sup> and again on March 20<sup>th</sup>. The initial email informed students of the role of various Student Association positions, encouraged students to run for positions, and detailed three informational meetings. The second email, on March 20<sup>th</sup>, was sent as a reminder for the final informational meeting that afternoon at 4:00PM. Next, advertisements were placed in the *Campus Times*. Additionally, 400 flyers were posted throughout the University campus shortly before Spring Break. The newspaper advertisements, flyers, and the second email all stressed the requirement of attending one of the three initial informational meetings.

At each of these three informational sessions, the Chair of the Elections Committee informed individuals interested in running for Students' Association positions of the various requirements for candidacy, including attendance at a fourth, mandatory meeting held Sunday March 20 at 9:00pm. He also told candidates that if they could not attend this mandatory meeting they could contact him via telephone or email.

The Petitioner did not attend any informational meetings or the mandatory candidate declaration meeting held by the Student Association's Elections Committee. The Petitioner stated that he did not remember receiving President Nabozny's March 4<sup>th</sup> email and did not see the posted flyers about any meetings. However, because of his involvement in his Hall Council activities, he heard that there were informational meetings occurring in the future by word of mouth. His understanding from his friends was that they were strictly informational and not mandatory.

Due to a family emergency, The Petitioner was not at the University from the afternoon of March 19<sup>th</sup> until the evening of March 20<sup>th</sup>. Thus, he would not have been able to attend either the final informational meeting at 4pm or the mandatory candidate filing meeting that evening. Although he returned Sunday evening shortly after the meetings, he claims he did not check his email because he was overwhelmed with personal and academic affairs until Thursday, March 24<sup>th</sup>. Upon checking his email, the Petitioner read President Nabozny's March 20<sup>th</sup> email and realized he had missed a mandatory meeting to run as a balloted candidate.

The Petitioner went to the Student Activities Office and was directed to the Senate Elections Committee chair. After explaining his mitigating circumstances to the Chairman, he asked that an exception be made for him and that he be named an official candidate and placed on the Spring 2005 election ballot. The Chairman denied the Petitioner's request. During the hearing the Chairman stated that this response was consistent with that given to other requests throughout the process. There were individuals that contacted him before the 9:00PM mandatory Sunday meeting who had been added to the ballot and individuals that contacted him after the meeting who were also denied official candidate status.

### III

The Council finds that the Senate Elections Committee handled the situation appropriately and upholds the decision to refrain from placing the Petitioner on the Spring 2005 Election Ballot.

The Petitioner was correct when he acknowledged that Elections Committee did not violate any Bylaws or Constitutional rights in turning down his request. The advertisement efforts and dissemination of information about the process met and exceeded the written Bylaws. It is unfortunate, and seems unlikely, that the Petitioner did not see one of the 400 flyers posted throughout campus. However, all students are expected by the University to check their University email regularly because it is an official form of communication from the Administration. It is unfortunate that the Petitioner did not realize he had missed a mandatory step of the candidacy process until his delayed receipt of the March 20 email, when it was too late. However, it is the Election committee's responsibility to make sure correct information is readily available to all students regarding the election. It cannot ensure that all students read official information or correct any hearsay misinformation from unofficial sources.

The Petitioner was technically denied the ability to run as a balloted candidate due to his absence from the mandatory filing meeting held the evening of March 20, and not the 4pm meeting as he thought. Solely for the purposes of evaluating this case, we find the distinction inconsequential. The Elections Committee Chair has reported they were willing to make exceptions to the attendance rule for interested individuals who contacted them prior to the mandatory evening meeting March 20. Regardless, from all the possible literature available, the 4pm meeting was mandatory for those who had not attended one of the previous two information meetings. Thus, from all of the official information available to Mr. Fuentes, he had still missed a mandatory meeting and had not utilized any of the contact information provided to remedy the situation before the evening deadline. Had he read the correct information he would have learned how important it was to contact the Chairman immediately upon learning of his inability to attend a mandatory meeting. His negligence and lack of initiative to learn about the requirements are not an excuse that the Council accepts as reasons for overturning the decision of the Election Committee.

The Council encourages the Petitioner to run for the 2008 Senate seat as a write-in candidate if he is still interested. The Election Committees decision does not prevent the Petitioner from his Constitutional right to run for a Senate seat.

The decision of the Senate Elections committee is upheld.

*It is so ordered.*