

THE CHEROKEE SUPREME COURT
EASTERN BAND OF CHEROKEE INDIANS
QUALLA BOUNDARY, CHEROKEE, NORTH CAROLINA

EBCI
CHEROKEE SUPREME COURT
CHEROKEE, NC

2021 SEP 23 P 2:29

FILED

AMY ANDERS,)	
)	
APPELLANT,)	
)	
V.)	CSC 21-02
)	
CHEROKEE BOARD OF ELECTIONS,)	OPINION
APPELLEE.)	
)	

Saunooke Law Firm, P.A., by Robert O. Saunooke,¹ for Appellant Amy Anders.

Attorney General Michael W. McConnell, and Associate Attorney General Vince Hyatt, for Appellee Cherokee Board of Elections.

PER CURIAM.

Amy Anders (Ms. Anders or Appellant) appeals pursuant to Cherokee Code (C.C.) § 161-4(e)(5) from the 31 March 2021 final decision of the Board of Elections of the Eastern Band of Cherokee Indians (Board of Elections or Board) denying Ms. Anders certification to serve as a candidate in the June 2021 primary election for the Cherokee School Board (School Board) representing the Wolfetown community² because the Board concluded that she did not “meet the qualifications for office” pursuant to C.C. § 161-4(e)(4)(c). Specifically, subsequent to the 25

¹ On 14 April 2021, this Court entered an order allowing Mr. Saunooke to appear *pro hac vice* in this matter upon application and association with Mr. Brent B. Smith, Esq., an attorney admitted to practice in the General Court of Justice of North Carolina and the Cherokee Courts, and payment of fees.

² Wolfetown is spelled in various forms in the Cherokee Code and in other EBCI documents and communications. For consistency purposes, we utilize the “Wolfetown” spelling and capitalization throughout this opinion regardless of how it may be presented in an original source document.

March 2021 hearing on her candidate certification, the Board of Elections determined that Ms. Anders “did not prove by a preponderance of the evidence that her residence is located in the Wolfetown community as opposed to the Big Y community” and therefore failed to meet the candidate residency requirement contained in Chapter 161 (the Elections Code), which mandates, in pertinent part, that a candidate for the Cherokee School Board must “[r]eside in the community the candidate represents for at least one year immediately preceding the date of the primary election.” C.C. § 161-3(c)(3). In arriving at this determination, the Board stated that pursuant to C.C. § 115-8(a), which governs the composition of and eligibility for membership for the Cherokee School Board, “Wolfetown and Big Y constitute separate communities for Cherokee School Board elections,” each possessing its own separate seat on the School Board for which only residents of that specific community are eligible, and because Ms. Anders’ residence is located in the Big Y community, she was not eligible to serve as a candidate from the Wolfetown community.

Ms. Anders timely appealed to this Court from the Board of Elections’ 31 March 2021 final decision, initially challenging the Board’s determination that her residence is physically located within the Big Y community due to the Board requiring her to vote in the Wolfetown community precinct on at least one previous occasion. Appellant further maintained that, even if she resided in Big Y, she should be able to run for the Wolfetown school board seat because the Big Y community is a part of and located within the greater Wolfetown Township. On 29 April 2021, Ms. Anders and the Board of Elections presented their respective oral arguments to this Court. After carefully reviewing the record, briefs, and oral arguments of the parties, this Court filed an order without written opinion affirming the Board’s decision the same day due to the time restriction for the June 2021 primary elections set out in Chapter 161. Consistent with our 29 April 2021 order, this Court now issues its written opinion in this matter.

Discussion

At oral argument before this Court, Ms. Anders withdrew her arguments about the location of her residence and conceded to the Board of Elections' findings and determination that she is a resident of the Big Y community,³ which is located entirely within the larger Wolfetown Township. The parties also agree that Tribal Council created two seats on the Cherokee School Board for residents in the Wolfetown Township, one of which Tribal Council reserved exclusively for residents of the Big Y community for which only Big Y residents are eligible to run, and one for the Wolfetown community.

The issue in this appeal regards the parameters that Tribal Council set forth in the Cherokee Code with respect to the candidate residency requirement for the Cherokee School Board seat that Tribal Council allocated to the Wolfetown community in C.C. § 115-8(a) (providing for "seven members elected by the qualified voters from each of the following Communities: Birdtown, Wolfetown, Big Cove, Yellowhill, Painttown, and Big-Y; together with one member appointed from the Tribal Council"). Ms. Anders asserts that all residents of Wolfetown Township, inclusive of the residents of the Big Y community, are eligible to run for the Wolfetown school board seat; whereas the Board of Elections argues that only those individuals who reside within the Wolfetown community which is located *outside* the Big Y community in the Wolfetown Township are eligible to run for the seat. Thus, the only issue before us is whether Ms. Anders as a resident of the Big Y community meets the candidate residency requirement set forth in C.C. § 161-(3)(c)(3) to be

³ The record shows that there are no metes and bounds measurements delineating the exterior boundary of the Big Y community on the Qualla Boundary. Therefore, for the limited purpose of this appeal, this Court accepts the parties' agreed premise that the location of Appellant's residence is within the Big Y community. The Court does not make any determination as to the boundaries of the Big Y community or the Wolfetown community within the Wolfetown Township.

eligible to run for the Cherokee School Board seat that Tribal Council allocated to the Wolfetown community in C.C. § 115-8(a).

According to Ms. Anders, Cherokee law allows for the certification of a resident of the Big Y community as a candidate for either of the Cherokee School Board seats representing the Wolfetown Township, namely the Big Y school board seat and the Wolfetown school board seat. In support, Appellant primarily points to the definition of “Township” contained in the Elections Code, which states:

Township shall mean the six established communities on the Qualla Boundary recognized by the Tribal Council and in the Charter and Governing Document as having Tribal Council representatives: Big Cove (including Tow String), BirdTown (including 3200 Acre Tract), PaintTown, YellowHill, Wolfetown (including Big Y), SnowBird, and Cherokee County trust lands combined.

Id. § 161-20. Ms. Anders contends that by describing “Wolfetown” as “including Big Y,” the Tribal Council clearly indicated that residents of the Big Y community are also residents of the Wolfetown community for purposes of Chapter 161, including the candidate residency requirement mandating that a candidate for the Cherokee School Board must “[r]eside in the community the candidate represents for at least one year immediately preceding the date of the primary election” *Id.* § 161-3(c)(3). Appellant maintains that if Tribal Council wanted to exclude residents of the Big Y community from eligibility to run as candidates for the Wolfetown community school board seat, then Tribal Council would not have used inclusive terminology regarding Wolfetown when defining “Township” in C.C. § 161-20; rather, Tribal Council would have used words of exclusion or created a separate residency requirement for the seat, which it did not do. Ms. Anders further argues that, instead of correctly determining that she met the candidate residency requirement for the Wolfetown school board seat in accordance with Chapter 161, the

Board unilaterally and erroneously added an additional candidate residency requirement to exclude residents living in the Big Y portion of Wolfetown Township that is not supported by either the Charter and Governing Document of the EBCI (Charter) or the Cherokee Code. Although Appellant maintains the pertinent Cherokee Code provisions are clear that residents of Big Y are eligible to serve as candidates for the Cherokee School Board seat from the Wolfetown community, she asserts that if this Court finds ambiguity in the statutory scheme, we should resolve the issue in her favor. In view of the above, Ms. Anders contends the Board erred when it determined that she was not eligible to serve as a candidate for the Wolfetown community school board seat based on an erroneous interpretation of the candidate residency requirement for the seat contained in Chapter 161.

The Board of Elections asserts that it correctly interpreted the law regarding the residency requirement for candidates for the Wolfetown community school board seat and, therefore, that the Board did not err in determining that Appellant did not meet the residency requirement for certification as a candidate for the Cherokee School Board seat allocated to the Wolfetown community. The Board agrees that the Big Y community is physically located within Wolfetown Township; however, it asserts that C.C. §§ 115-8(c) and 161-3(c)(3) are clear that residency in the correct “community,” not “township,” is a necessary qualification to be certified as a Cherokee School Board candidate. Emphasizing that Tribal Council specifically listed Big Y and Wolfetown as separate “[c]ommunities” in C.C. § 115-8(a), the Board maintains that, in doing so, Tribal Council clearly expressed its intent to divide the Wolfetown Township into two smaller communities—the Big Y community and the Wolfetown community—for the purpose of Cherokee School Board representation. *Id.* Moreover, because C.C. § 161-2(c) plainly sets out the communities (and seats) for School Board representation without any special criteria, the Board

contends that the clear meaning of this language is that the communities listed for representation on the Cherokee School Board are separate and distinct, such that there can be only one representative member, based on residency, for each of the six communities listed therein. This includes one seat for the Big Y community that is limited exclusively to residents of Big Y and one seat for the Wolfetown community that is limited exclusively to the remaining residents of the Wolfetown Township who live outside of the Big Y community. The Board maintains that its interpretation and understanding of the relevant Cherokee Code provisions and Tribal Council's intent is further supported by several resolutions passed by Tribal Council—namely Resolution 26-S (June 20, 1969), Resolution 434 (May 20, 1971), Resolution 110 (January 6, 1984), and Resolution 393 (June 18, 1985)—which show that Tribal Council, upon creation of the Cherokee School Board, (1) organized School Board membership and representation by reference to the term “community,” not “township,” and (2) referred to Big Y and Wolfetown as separate and distinct communities for School Board purposes.

Additionally, the Board asserts that Ms. Anders' reliance on the definition of “Township” in C.C. § 161-20 is misplaced because this statutory provision defines said term for purposes of Chapter 161 with respect to Tribal Council, not School Board, representation and, therefore, the inclusion of Big Y as a part of the Wolfetown Township only applies for purposes of Tribal Council representation. According to the Board, nothing in said definition limits Tribal Council's authority to establish a Cherokee School Board consisting of member representatives of different communities not in accord with the Township model used to allocate representation on Tribal Council, and the Board contends that Tribal Council has done this by enacting C.C. §§ 115-8 and 161-3(c).

Finally, the Board of Elections argues that if this Court views the pertinent statutory provisions in Chapter 161 as ambiguous, we should recognize and afford some deference to the Board's interpretation because Tribal Council has delegated the Board authority over election matters pursuant to section 6 of the Charter and the Elections Code. In support, the Board points to its longstanding practice of printing two different ballots for Wolfetown Township residents for each two-year election cycle: one ballot identified as "Wolfetown/Big Y" for residents of the Big Y community who are only permitted to cast their ballot at the Big Y voting precinct, and one ballot identified as "Wolfetown" for all other residents of the Wolfetown Township not living in the Big Y community who are only permitted to cast their ballot at the Wolfetown community voting precinct. All Wolfetown Township ballots (Wolfetown/Big Y and Wolfetown) include the same list of Tribal Council candidates for the Wolfetown Township for every election, whereas due to the staggered four-year terms for School Board members, every two years either the Wolfetown/Big Y community ballots or the Wolfetown community ballots will include a list of School Board candidates for that specific community only and the other community's ballots will be silent as for School Board candidates in that same election cycle.

This Court has original and exclusive jurisdiction to hear all appeals in an election dispute and to review a final decision of the Board of Elections for alleged errors of law. *McCoy v. Bd. of Elections of the E. Band of Cherokee Indians*, 16 Am. Tribal Law 13, 21 (Eastern Cherokee Sup. Ct. 2019) (citing *Crowe v. E. Band of Cherokee Indians*, 2003 WL 25902442, *1, *1 (Eastern Cherokee Sup. Ct. 2003)). The issue in the matter before us centers on statutory interpretation, which is a question of law that this Court reviews de novo. *E. Band of Cherokee Indians ex rel. Enrolled Members v. Lambert*, 15 Am. Tribal Law 55, 63 (Eastern Cherokee Sup. Ct. 2018) (citing *Brown v. Flowe*, 349 N.C. 520, 523, 507 S.E.2d 894, 896 (1998) (stating that "[a] question of

statutory interpretation is ultimately a question of law for the courts”; *Maready v. City of Winston-Salem*, 342 N.C. 708, 716, 467 S.E.2d 615, 620 (1996))).

Under the rules of statutory interpretation, the Court will “first look to the plain meaning or the plain language of a statute to determine if the statute speaks directly to the issue presented.” *Teesateskie v. E. Band of Cherokee Indians Minors Fund*, 13 Am. Tribal Law 180, 186 (Eastern Cherokee Sup. Ct. 2015) (citation omitted). Section 6 of the Charter provides: “The Tribal Council shall establish a Board of Elections and enact election rules and regulations for the conduct of elections.” Charter § 6. The Board of Elections “‘is an administrative agency created by the Tribal Council. It has the duty to carry out the provisions of Chapter 161 of the Cherokee Code,’ which contains the rules and regulations enacted for the regulation and administration of elections.” *McCoy*, 16 Am. Tribal Law at 22 (quoting *Crowe*, 2003 WL 25902442, at *1)).

In Chapter 115, Article II of the Cherokee Code, entitled “Cherokee School Board,” Tribal Council has mandated that “[t]he Cherokee School Board shall consist of seven members elected by the qualified voters from each of the following *Communities*: Birdtown, Wolfetown, Big Cove, Yellowhill, Painttown, and Big-Y[,] together with one member appointed from the Tribal Council[, with t]he elected members . . . serv[ing] staggered four-year terms,” C.C. § 115-8(a) (emphasis added), and that “[n]o one shall be eligible to serve on the Cherokee School Board unless they reside in the *community* they are to represent for one year immediately preceding the date of election,” *id.* § 115-8(c) (emphasis added). *See also id.* § 115-9 (stating that “[i]f a vacancy occurs within the School Board due to death, resignation or removal, the Tribal Council shall call a special election within 30 calendar days of the vacancy, and a new board member shall be elected in the *community* in which the vacancy occurs”) (emphasis added). Relatedly, Chapter 161, which Tribal Council has entrusted the Board to administer, provides, in pertinent part, that Cherokee

School Board members are elected to four-year, staggered terms, “with one representative elected from Birdtown, Wolfetown, and Big Cove in 2001, and each four years thereafter, and one representative elected in Yellowhill, Painttown, and Big Y *Community* in 1999, and each four years thereafter,” *id.* § 161-2(c) (emphasis added), and that “to run or serve as a member of the Cherokee School Board, a candidate must[] . . . [r]eside in the *community* the candidate represents for at least one year immediately preceding the date of the primary election and continue to reside in that community during the term of office,” *id.* § 161-3(c) (emphasis added).

Based on the Tribal Council’s consistent use of the terms “communities” and “community” in the Cherokee Code with respect to the allocation of Cherokee School Board seats and the express candidate residency requirements for said seats, the plain language of the statutes directly address the issue before this Court. The plain meaning of the terms “communities” and “community” in C.C. Chapter 115 and C.C. §§ 161-2(c) and 161-3(c) is clear that School Board member seats are allocated to specific named communities and that certification as a School Board member candidate for one of the communities requires the candidate to reside within that specific community. “The plain meaning of legislation should be conclusive, except in the ‘rare cases [in which] the literal application of a statute will produce a result demonstrably at odds with the intentions of its drafters.’” *Lambert*, 15 Am. Tribal Law at 65 (quoting *United States v. Ron Pair Enterprises, Inc.*, 489 U.S. 235, 242, 109 S. Ct. 1026, 1031 (1989) (alteration in original) (quoting *Griffin v. Oceanic Contractors, Inc.*, 458 U.S. 564, 571, 102 S. Ct. 3245, 3250 (1982))). Although this Court would be justified in curtailing its review based upon the plain language of C.C. §§ 115-8(a), (c) and 161-3(c)(3), we will further examine the statutory scheme, which does not define the terms “community” or “communities” but does utilize the term “communities” to define

“Township,” C.C. § 161-20, in order to ensure that the literal application of the statutory language does not contravene the intent of the Tribal Council.

Tribal Council defined the term “Township,” by reference to the term “communities” in Chapter 161, stating:

[F]or all purposes of this Chapter,

. . . .

Township shall mean the six established communities on the Qualla Boundary recognized by the Tribal Council and in the Charter . . . as having Tribal Council representatives: Big Cove (including Tow String), BirdTown (including 3200 Acre Tract), PaintTown, YellowHill, Wolfetown (including Big Y), SnowBird, and Cherokee County trust lands combined.

Id. § 161-20. This definition is not a model of clarity. For example, read literally, this provision suggests that Township means all six “communities” described therein collectively combined. Nevertheless, we read the above provision as indicating that, for purposes of Chapter 161, a Township consists of *one of* “the six communities on the Qualla Boundary recognized by the Tribal Council and in the Charter . . . as having Tribal Council representatives.” *Id.* Even so, however, the statutory language remains unclear regarding whether a “township” and a “community” are different or synonymous for purposes of Chapter 161.

Because Chapter 161 defines Township by reference to “the six established communities . . . recognized by the Tribal Council and in the Charter . . . as having Tribal Council representatives,” *id.*, we look to the Charter and elsewhere in Chapter 161 for further guidance. Section 1 of the Charter, the pertinent provision referred to in C.C. § 161-20, does not utilize or even include the term “community”; rather, the term “Township” is used therein to denote the political subdivisions which will be granted Tribal Council representation. Charter § 1 (assigning two Tribal Council representative seats each to “Yellowhill Township,” “Big Cove Township,”

“Birdtown Township,” “Wolfetown Township,” “Painttown Township,” and “Cherokee and Graham Counties, constituting one Township”). Likewise, the pertinent Chapter 161 provisions addressing the allocation of Tribal Council membership and residency requirements also use “township” terminology and the same Township names. *Id.* § 161-2(b) (mandating that “Tribal Council will consist of 12 members as follows: from Big Cove Township, two members; from Birdtown Township, two members; from Wolfetown Township, two members; from Yellowhill Township, two members; from Painttown Township, two members; from Graham and Cherokee Counties constituting one Township, two members”); *id.* § 161-3(b)(3) (mandating that “to run or serve as a member of the Tribal Council, a candidate must[] . . . [h]ave resided in the township which he or she is to represent for at least 90 days immediately preceding the date of the general election”). Notably, the Township names used in Section 1 of the Charter and C.C. § 161-2(b) match the names referred to in the definition of “Township” as “the six established communities on the Qualla Boundary,” *id.* § 161-20, with three of the Townships described as being inclusive of a separately identified community either carved out of the greater Township or with additional territory containing additional residents in terms of constituting a “Township,” namely Wolfetown, Big Cove, and Birdtown, and the other three Townships described by the same or similar names set forth in the Charter and Chapter 161 that address membership on Tribal Council without any apparent reference to additional or separately identified inclusive territory, *id.* (describing Big Cove Township as “Big Cove (including Tow String),” Birdtown Township as “BirdTown (including 3200 Acre Tract),” and Wolfetown Township as “Wolfetown (including Big Y),” but describing Painttown Township as “PaintTown,” Yellowhill Township as “YellowHill,” and the sixth Township as “SnowBird[]and Cherokee County trust lands combined”).

Viewed together, the six named Townships set forth in Section 1 of the Charter and C.C. § 161-2(b) are synonymous with the descriptions in C.C. § 161-20—that Big Cove Township consists of “Big Cove (including Tow String),” Birdtown Township consists of “BirdTown (including 3200 Acre Tract),” Wolfetown Township consists of “Wolfetown (including Big Y),” Painttown Township consists of “PaintTown,” Yellowhill Township consists of “YellowHill,” and the final Township consists of “SnowBird[]and Cherokee County trust lands combined.” *Id.* § 161-20. Moreover, viewing these provisions that utilize “township” language in conjunction with the provisions contained in C.C. Chapters 115 and 161 that utilize “community” and “communities” with respect to the Cherokee School Board, we conclude that (1) a Township is composed of one or more identified communities; (2) representation and candidate eligibility for Tribal Council is allocated and based upon residency in a Township as set forth by Tribal Council in the Charter and the Cherokee Code; and (3) representation and candidate eligibility for the Cherokee School Board is allocated and based upon residency in specific communities named by Tribal Council in C.C. § 115-8(a), which may or may not be synonymous with the larger Township.

Notwithstanding the above, we find the pertinent statutory language in Chapter 161, specifically C.C. § 161-2(c), to be clear and unambiguous with respect to Tribal Council’s intent to limit representation and eligibility for the Big Y community seat on the School Board exclusively to the residents of the Big Y community, particularly when Tribal Council explicitly used the term “[c]ommunity” with respect to Big Y therein. We cannot, however, accept Appellant’s contention that, even though Tribal Council specifically carved out Big Y from Wolfetown Township for School Board purposes, Tribal Council intended for School Board candidate eligibility in the remaining five named communities to function in precisely the same

manner as Tribal Council representation, such that residents of Wolfetown Township, including Big Y, are eligible to run for the Wolfetown community school board seat, just because residents of Painttown Township are eligible for the Painttown community school board seat, residents of Yellowhill Township are eligible for the Yellowhill community school board seat, residents of Big Cove Township (including Tow String) are eligible for the Big Cove community school board seat, and residents of Birdtown Township (including 3200 acre tract) are eligible for the Birdtown community school board seat. To construe the statutory framework as Appellant suggests potentially disenfranchises members of the electorate of the Eastern Band of Cherokee Indians with respect to School Board representation. Specifically, Appellant's interpretation, which would allow two residents of the Big Y community to run for two School Board seats, provides residents of Big Y with a superior opportunity for representation on the School Board vis-à-vis the remaining five communities allocated School Board seats and could potentially deprive residents of the Wolfetown community, whose homes are located outside of Big Y, of any representation on the School Board by a resident of the Wolfetown community. We do not believe Tribal Council intended such a result.

Another potential interpretation of the statutory framework, and the one we adopt, is that Tribal Council intended to allow individuals, who are eighteen years or older and reside in any of the communities located within Painttown Township, Big Cove Township, Birdtown Township, and Yellowhill Township that have been allocated a School Board member seat, to seek election for Cherokee School Board and vote for School Board candidates from their respective Townships, as well as to allocate two Cherokee School Board seats within Wolfetown Township, one for the Big Y community and one for the Wolfetown community outside of Big Y, to guarantee both communities representation on the School Board. This interpretation limits eligibility to run for

the Wolfetown community school board seat to residents located within the Wolfetown community, outside of the Big Y community, not the larger Wolfetown Township. The Court finds this latter interpretation, which provides representation to the two identified electorate communities within the Wolfetown Township, to be consistent with Tribal Council's intent.

Additional provisions pertaining to the Cherokee School Board and elections further support this interpretation. In order to "ascertain the intent of the legislature, [beyond] . . . applying the statute's language[, the Court will] . . . , if necessary, consider[] its legislative history and the circumstances of its enactment." *Shaw v. U.S. Airways, Inc.*, 362 N.C. 457, 460, 665 S.E.2d 449, 451 (2008) (citations omitted). In the event the statute is silent or ambiguous on an issue, courts may afford deference to the statutory interpretation of the administrative agency that the legislative body has entrusted to administer the statute, so long as the agency's interpretation is a permissible construction of the statute. *See Chevron U.S.A. Inc. v. Nat. Res. Def. Council, Inc.*, 467 U.S. 837, 843-44 104 S. Ct. 2778, 2781-82 (1984) (stating that in reviewing an administrative "agency's construction of the statute which it administers," if the legislative body "has directly spoken to the precise question at issue" and "the intent of [the legislative body] is clear," then the reviewing court and the agency "must give effect to the unambiguously expressed intent of" the legislative body, but "if the statute is silent or ambiguous with respect to the specific issue," the reviewing "court does not simply impose its own construction on the statute as would be necessary in the absence of an administrative interpretation," instead, "the question for the court is whether the agency's answer is based on a permissible construction of the applicable statute"). Historical ordinances pertaining to the Cherokee School Board and elections therefor submitted to the Court in this matter tend to show that Tribal Council did not intend to provide any community with the opportunity for superior representation on the School Board. *See, e.g.*, Resolution 434 (May 20,

1971) (approving “the attached by-laws govern[ing] all actions of said Board,” which state that the School Board “represents the local communities,” that “[t]he members therefore shall be elected members of their respective communities,” that “[i]n case there is more than one organized community in the voting district[,] each community shall be represented by one member,” and that to be qualified for a member seat on the School Board, an individual must be “[a] resident of the community he or she represents for at least 90 days prior to the election”).⁴ Furthermore, we find the following mandate contained in the definition of “Polling Place” in C.C. § 161-20 to be illuminating and instructive with respect to Tribal Council’s intent, including regarding the meaning of “Wolfetown” in C.C. § 161-2(c) and the residency requirement contained in C.C. § 161-3(c)(3): “The Board of Elections shall authorize and designate one polling place in each voting township, except for the Wolfetown Township, which shall have two polling places — one in Wolfetown and one in Big-Y.” *Id.* § 161-20. Indeed, this provision expressly states that the Wolfetown Township consists of the smaller communities of Wolfetown and Big Y. Even more importantly, Tribal Council’s decision to designate two polling places within the Wolfetown Township located in the smaller communities of Wolfetown and Big Y, the same communities allocated School Board seats by Tribal Council in C.C. § 115-8(a), strongly supports the Board of Elections’ understanding of the statutory framework articulated by Tribal Council in Chapter 161, namely that Tribal Council intended that only residents of the Big Y community would be eligible to run as school board candidates for the Big Y community seat and that only residents of the Wolfetown community, whose residences are located within the Wolfetown Township but outside of Big Y, would be eligible to run as school board candidates for the Wolfetown community seat.

⁴ Under current law, an individual is required to “[r]eside in the community the candidate represents for at least one year immediately preceding the date of the primary election” C.C. § 161-3(c)(3).

In view of the above, we hold that, consistent with Tribal Council's intent as evidenced by the pertinent Cherokee Code provisions, historical resolutions and bylaws pertaining to the School Board, and the Board's interpretation of the statutory framework set out in the Elections Code, candidate eligibility for the Wolfetown school board seat is reserved exclusively for individuals whose residences are located within the Wolfetown community—that area within the Wolfetown Township that is located outside of the Big Y community. Again, the parties here have mutually agreed (and this Court makes no findings or decision) that Ms. Anders' residence is located within the Big Y community, thus, she is not eligible to serve as a candidate for Cherokee School Board from the Wolfetown community. Consequently, we hold that the Board of Elections did not err by denying Ms. Anders certification to serve as a candidate for the School Board member seat for the Wolfetown community and affirm the Board's 31 March 2021 final decision.

AFFIRMED.

This the 28th day of September, 2021.

Kirk G. Saunooke

Kirk G. Saunooke
Chief Justice

Brenda Toineeta Pipestem

Brenda Toineeta Pipestem
Associate Justice

Robert C. Hunter by
RCH

Robert C. Hunter
Associate Justice