



**Tla'amin Nation  
Review & Appeal Panel**

Mail: Box 147 Lund, B.C., V0N 2G0  
Mobile: 604-223-4671  
Chair: Peter D. Larlee  
Clerk: Frances Ladret  
E-mail: rapclerk@gmail.com

---

August 31, 2024

**Review or Appeal Request No. 2024-02**

In the Matter of the Appeal by Brandon Peters of the Decision  
of Jordon Loose, elections officer  
Pursuant to section 30(2) of the *Election Law*

**Date of Hearing:** August 19, 2024  
**Date of Order:** August 19, 2024  
**Date of Written Reasons:** August 31, 2024

**Hearing Location:** Video Conference

**Panel members hearing the appeal:**  
Peter D. Larlee, Panel Chair  
Brooke Vagelatos, Standing Panel Member  
Melanie Vivier, Standing Panel Member

**Panel Order and Written Reasons**



## ORDER OF THE REVIEW AND APPEAL PANEL

**Review or Appeal Request Order No.** 2024-02

**Ordered:** August 19, 2024

### **Order**

The Review and Appeal Panel orders that the appeal of Brandon Peters is allowed. The Panel rescinds the original decision of Mr. Loose and issues its own decision that Mr. Peters may be certified as a candidate for the office of legislator in the Tla'amin Nation General Election on September 14, 2024.

Written reasons for this decision will follow as soon as possible.

### **Authority**

This order is made under the authority of section 16(4) of the *Review and Appeal Law*.

By the following members of the Review and Appeal Panel:

Peter D. Larlee, Chair  
Brooke Vagelatos, Standing Member  
Melanie Vivier, Standing Member

Signed this 31<sup>st</sup> Day of August 2024:

---

Peter D. Larlee, Panel Chair

## WRITTEN REASONS

### The Election

1. An election for Hegus and Legislative Assembly members will be held for the Tla'amin Nation on September 14, 2024 (the Election).
2. Pursuant to section 13(1) of the *Election Law*, the Legislative Assembly appointed Mr. Jordan Loose (Elections Officer), with the indigenous services organization, OneFeather, as the elections officer for the Election.
3. Pursuant to section 24(1) of the *Election Law*, a nomination meeting was held for Hegus and Legislative Assembly members on June 27, 2024 (the Nomination Meeting).

### The Nomination

4. Tla'amin Citizen, Brandon Peters, was nominated as a candidate for the Election at the Nomination Meeting. Mr. Peters accepted this nomination.

### Certification of Candidacy

5. All nominated candidates are required to complete a Certification Package and return it to the elections officer within seven days of the Nomination Meeting. This package must include:
  - (i) Schedule C – Acceptance of Nomination for Tla'amin Election Form;
  - (ii) Schedule D – Certificate of Qualification; and
  - (iii) Schedule E – Nominee Disclosure Statement.

(All being schedules to the *Nomination Regulation*)
6. As required by sections 10(1)(e) and 10(3)(b) of the *Election Law* and Section 13 of the *Nomination Regulation*, Mr. Peters was required to provide a Certificate of Qualification which is to be signed and witnessed.

### Election Officer's Decision

7. Mr. Loose informed Mr. Peters of his decision by way of email on July 10, 2024, as follows:

*Jordan Loose July 10, 2024, at 15:07*

*Good afternoon Brandon,*

*As your Certificate of Qualification was not submitted within the seven (7) days following the Nomination Meeting (June 27-July 4th), you will not be considered an eligible Candidate. (Please see section 29.1 of the Election Law*

*Any Candidate fee submitted will be refunded.*  
Jordan Loose

OneFeather Customer Experience  
<https://www.onefeather.ca/contact>

We serve hundreds of First Nation, Metis, Inuit, public and private communities across Canada and the United States.

## **The Appeal Request**

8. Pursuant to section 30(2) of the *Election Law*, Mr. Peters submitted his appeal request to the Review and Appeal Panel (the Panel) on July 12, 2024. In his request, Mr. Peters appealed Mr. Loose's decision to disqualify Mr. Peters as a candidate for the Legislative Assembly. The relief sought by Mr. Peters is to be placed on the Final Candidates List for the Election.
9. Mr. Peters focused his appeal request on his belief that he had made every effort to file the Certificate of Qualification with the Elections Officer within the required 7-day period. He admits in a written statement and in testimony that he may have failed to submit the Certificate of Qualification as he was rushed and relied on the scanner he used to submit documents to the Elections Officer. He concedes that the page containing the Certificate of Qualification might have been stuck to another page and may not have been included.
10. Mr. Peters provided a written statement with his appeal request, whereby he stated that:
  - he did not attend the Nomination Meeting and therefore did not have an opportunity to pick up a Certification Package at the Nomination Meeting.
  - on July 4, 2024, he filed a Certification Package by email with the offices of the Elections Officer, via the Tla'amin Nation nomination account at OneFeather. He believed the Certification Package was complete.
  - on July 4, 2024, he received a message from the office of Mr. Loose that they had no record of receiving the Certification Package.
  - he located the email and attachment containing his Certification Package and sent it again to Mr. Loose. Mr. Peters says that on July 4, 2024, after sending the package again he asked a staff member of Mr. Loose by email if his Certification Package was complete. He says he did not get a reply on that date.
  - on 5 July 2025 he received a message from Mr. Loose that the Certificate of Qualification was missing.
  - he submitted the Certificate of Qualification on the same day. Mr. Peters has provided a screen shot of a phone message time stamped 6:15 pm where he says he also asked Mr. Loose if his application was now complete. He says he received no reply.

- he did not hear from Mr. Loose until July 11, 2024, when he was informed that he was not accepted as a certified candidate as he did not file a complete Certification Package.

### **The Notice of Response**

11. Mr. Loose submitted his Notice of Response on July 25, 2024. In his response, Mr. Loose stated clearly that the sole reason for the refusal to certify Mr. Peters as a candidate was due to Mr. Peters' failure to file the Certificate of Qualification within the stipulated 7-day period ending July 4, 2024.
12. In a written statement, Mr. Loose referred to section 10 of the *Election Law* which provides the eligibility requirements for candidates.
13. In his cover letter submitted with the RAP-5 form, Mr. Loose objects to the jurisdiction of this Panel. He wrote:

*Our review would suggest the Election Law provides no mechanism for Nominees to appeal the decision of the Electoral Officer concerning Candidate Eligibility non-compliance.*

### **The Hearing**

14. The hearing of the appeal was held by video conference on August 19, 2024. The Panel was constituted of three panel members being the Panel chair Peter Larlee, standing panel member Brooke Vagelatos and standing panel member Melanie Vivier.

### **The Review and Appeal Law**

15. Section 16 provides authority for the Panel to hear the appeal of the election officer's decision:
  - 16.(2) *The Review and Appeal Panel may, subject to the limits set out in section 25, hear appeals of decisions made by an elections officer in accordance with section 30(2)(b) [sic] of the Election Law with respect to whether an individual is a qualified candidate in an election.*
  - ...
  - (4) *Following the hearing of an appeal under subsection (1), (2) or (3), the Review and Appeal Panel must issue a panel order*
    - (a) *dismissing the appeal and upholding the original decision; or*
    - (b) *upholding the appeal, rescinding the original decision and issuing its own decision.*

## The *Election Law*

16. The sections provided below are taken from the *Election Law*, as amended by the *Election Amendment Law*, TNO-LA 09/2020, May 27, 2020, and are relevant to this proceeding:
- Section 10 sets out the eligibility requirements to be a candidate for Hegus or an elected member of the Legislative Assembly:

10.(1) *To be eligible to be nominated as a candidate for the office of Hegus or to be nominated as a candidate for any elected office of the Tla'amin Government to be filled in an election or by-election, an individual must*

...

*(e) sign in the prescribed form, a certificate of qualification;...*
  - Section 13.(3) sets out the obligations of the elections officer:

13.(3) *The elections officer is responsible for the fair, efficient and proper conduct of an election in accordance with this Law.*
  - Section 28 sets out the requirement imposed on the elections officer following the Nomination meeting:

28. *The elections officer **must send** a certification package which includes a notice of nomination in the prescribed form to each nominee no later than one day after the nomination meeting.[emphasis added]*
  - Section 29 imposes a requirement that the Nominee for office file with the elections officer required documents and that the elections officer may not certify the nomination unless the nominee meets the eligibility requirements:

29.(1) *A nominee who wishes to stand as a candidate in the election must file the following documents with the elections officer no later than seven days after the nomination meeting:*

    - (c) a statutory declaration in the prescribed form accepting the nomination;*
    - (d) a deposit payable to the Tla'amin Nation in an amount prescribed by the Executive Council;*
    - (e) a certificate of qualification in the prescribed form;*
    - (f) evidence that they have submitted a request for a criminal records check to be forwarded to the elections officer; and*
    - (g) a signed copy of the Tla'amin Nation Candidate Code of Fair Campaign Practices in the prescribed form....*

- (4) *If a nominee does not meet the eligibility criteria set out in section 10 or comply with any requirements set out in this Law, the elections officer may not certify the nominee as a candidate in the election under section 35.*
- Section 35 calls on the elections officer to declare the names of the certified candidate for the election:

35. *Within 15 days of a nomination meeting, the elections officer must declare the names of individuals who are eligible to be certified as candidates for the election in accordance with this Law and any relevant policies.*

### **The Nomination Regulation**

17. Section 13 of the *Nomination Regulation* sets out the process for certification of a candidate:

#### *Certification package*

13. *The elections officer **will provide** each nominee with a certification package no later than one day after the nomination meeting that contains*
- (a) *a notice of nomination in the form prescribed in Schedule B (Notice to Individuals Nominated);*
  - (b) *a declaration constituting an acceptance of nomination in the form prescribed in Schedule C (Declaration of Acceptance of Nomination for Tla'amin Nation Election) to be completed by the nominee;*
  - (c) *a certificate of qualification in the form prescribed in Schedule D (Declaration of Qualification) to be completed by the nominee;*
  - (d) *instructions on how to authorize a criminal records check to be forwarded to the elections officer and provide evidence that this request for a criminal records check to be forwarded to the elections officer has been submitted;*
  - (e) *instructions on how to pay the non-refundable deposit, that is payable to the Tla'amin Nation and submitted in a form acceptable to the elections officer, in the amount of \$100.00 for the office of Hegus and \$50.00 for the office of Legislator; and*
  - (f) *such other information that is required by the Law to be provided to a nominee or that the elections officer determines should be provided to a nominee. [emphasis added]*

### **Elections Officer Regulation**

18. The Section 3 of the *Elections Officer Regulation* requires that the elections officer swear an Elections Officials Oath of Office which is found in Schedule A to that *Regulation* and includes the following commitments:
1. *To strive to faithfully and impartially, exercise the powers and perform the duties identified in the Elections Law, regulations and policies; ...*
  4. *To act in good faith, and with due care, competence, and diligence, without representing material facts; ...*
  9. *To make decisions and carry out responsibilities in compliance with Tla'amin laws;*
  10. **To develop and maintain communications with the community** *in order to ensure accessible, accountable and transparent elections practices and processes;*
  11. *To strive to **be effective and professional in my communication** with Tla'amin government officials, employees, and Tla'amin Citizens; [emphasis added]*

### **Submissions of Mr. Peters**

19. Mr. Peters gave testimony at the hearing and was questioned by panel members. Mr. Peters did not call a witness.
20. Mr. Peters did not attend the Nomination Meeting but was informed by his nominators that he was nominated as a candidate in the Election.
21. Mr. Peters testified that he did not receive a Certification Package from the Elections Officer on June 28, 2024 (Certification Package Email), or on any day following the Nomination Meeting. Mr. Peters states he has checked his email carefully, including spam and junk folders and there were no messages received from Jordon Loose, following the Nomination Meeting.
22. Mr. Peters says that he realized in talking to other candidates on July 3, 2024, that July 4, 2024, was the deadline for filing his certification package and he rushed to find the package on the OneFeather website, to print it and to complete the various forms.
23. Mr. Peters says he had to hurry to complete the package and had his mother act as witness. All documents in the Certification Package are dated July 4, 2024. He says he went to the office of his employer and scanned the package and sent it to the email address of the Elections Officer. He then says he made several follow up calls on July 4, 2024.
24. Mr. Peters has produced an email from an employee of OneFeather, Teoni Spathefer, to Mr. Peters advising that there was nothing attached to his email. Notably, this email is missing from the Elections Officer's email disclosure to the Panel. This email appears to be time stamped 11:51 am.

25. Mr. Peters states he sent the package again in the early evening, unknowing that it missed an essential document, the Certificate of Qualification. In that cover email he asks, “please let me know if this one works?”
26. Mr. Peters says he received no reply until the next day at 6 pm, July 5, 2024, asking him if there was another submission from him that included the Certificate of Qualification.
27. Mr. Peters sent the Certificate of Qualification on July 5, 2024, and its receipt is confirmed on this date by Mr. Loose.
28. Mr. Peters testified that he made numerous phone calls to the office of the Elections Officer on July 4 and 5, 2024, but no calls were returned.
29. Mr. Peters says he was not informed that he was not on the Final Candidates List until July 11, 2024.

### **Submissions of Mr. Loose**

30. In his cover letter submitted with the RAP-5 form, Mr. Loose objects to the jurisdiction of this Panel. He wrote:

*Our review would suggest the Election Law provides no mechanism for Nominees to appeal the decision of the Electoral Officer concerning Candidate Eligibility non-compliance.*

Mr. Loose testified at the hearing that he maintains his objection to the lack of jurisdiction of the Panel. This is an issue in this appeal and will be a preliminary question to be decided by the Panel in this hearing.

31. In his further disclosure, Mr. Loose has provided a copy of the cover letter and Candidate Package Instruction Email sent to Mr. Peters via email on June 28, 2024. The email letter clearly stated the requirement for the filing of the Certificate of Qualification.
32. In the RAP-5 form and in a cover letter, Mr. Loose states that Mr. Peters did not file a Certificate of Qualification and thus failed to fulfil his Candidate Eligibility as required in section 10.1-10.3 of the *Election Law*.
33. Mr. Loose provided documentary evidence of the interaction between the Election Officer’s office and Mr. Peters.
34. In response to questions from the Panel, Mr. Loose stated that OneFeather operates a client management system called Zendesk. Mr. Loose stated that this system includes each email or phone contact to or from each “client” in this system. All email is run through this system. Mr. Loose has disclosed various reports relating to Mr. Peters. One report indicates that on July 4, 2024, at 7:23 PM Mr. Peters wrote to Mr. Loose as follows:

*“It was in the body of the message. Let me know if this one works.”*

35. The message of July 4, 2024, from Mr. Peters included a phone number. The email system appears to show no response to this message on July 4, 2024.

36. The next entry is again from Mr. Peters dated July 5, 2024, and reads as follows:

*"Hi, is everything good with the package?"*

37. The next message recorded is from Teoni Spathefer on July 5, 2024, and appears to be directed to Mr. Loose:

*"This email came in last night from Tla'amin candidate with his candidate package ...Please confirm it all ok or if he missed the opportunity to run..."*

38. What follows is an email the same day from Mr. Loose to Mr. Peters at 6 pm asking if there was another submission made that included the Certificate of Qualification.

39. The next entry is a note dated 6:05 pm, that states:

*"Missed call from Brandon Peters"*

40. What follows is two messages from Mr. Peters on July 8 and July 9, 2024, asking if his *"package is accepted"*.

The final entry is simply:

*"Brandon Peters July 5, 2024, 18:15"*

41. On July 10, 2024, Mr. Loose wrote to Mr. Peters advising that the Certificate of Qualification had not been submitted within the required 7-day period ending July 4, 2024, and as a result he was found to be ineligible as a candidate.

42. Mr. Loose's testimony is that he prepared and sent an email letter the day following the Nomination Meeting informing Mr. Peters of the requirements to submit a Certification Package. Mr. Loose did not have verification that Mr. Peters received this email.

He later informed BP that he did not comply with those requirements in that he failed to file a Certificate of Qualification within the prescribed 7-day period.

43. Mr. Loose confirms both in his written statement and his oral testimony that he received the Certificate of Qualification on July 5, 2024. In his further disclosure, Mr. Loose writes:

*"The certificate was submitted the day following the prescribed deadline on July 5th."*

44. On questioning by the Panel, Mr. Loose acknowledged that he did not speak to Mr. Peters and that his preference is email communication. He says he has two election staff who support him and that they complete an initial review of submissions and flag important communication for his attention.

45. Mr. Loose states that he does not understand how Mr. Peters did not receive the Certification Package Instruction Email of June 28, 2024, a copy of which was disclosed and appears in the client management system, which informed each nominated candidate of their requirements to complete the Certification Package and other requirements. These requirements are set out in section 29 of *Election Law* and paragraph 16 above. Mr. Loose testified that this Certification Package Instruction Email was the sole manner of communication and delivery of the Certification Package.
46. Mr. Loose testified that when there is no response to this Certification Package Instruction Email, there is no further follow-up as sometimes nominees fail to proceed with their candidacy.
47. Mr. Loose was questioned regarding the integrity of the client management system and how it integrated with the email program. He stated that the OneFeather email system was run by Outlook. He stated he was unable to go to Outlook to confirm if email was sent to client. He stated he relied on the client management system to record and manage email traffic.
48. Mr. Loose states that he was required to follow the *Election Law*. The required Certificate of Qualification was not delivered to his office within the required time period as set out in the law and thus Mr. Peters could not be certified as a candidate for the Election.

**Analysis:**

49. The Panel has determined that it has the authority to hear this appeal. That authority derives from subsection 30(2) of the *Election Law* which reads:

*30(2) If the elections officer decides that an individual **may not be**, or should not have been, certified as a candidate, that individual may, within three days after receipt of the elections officer's decision, appeal the decision to the Review and Appeal Panel.[emphasis added]*
50. The Panel is of the view that this is a stand-alone subsection of the *Election Law* and is not modified by any other provisions of that Law. The subsection provides a right of appeal and that right of a citizen to appeal must be sustained by this Panel to ensure proper and full participation by citizens in the election process.
51. The Panel is of the view that there must be compliance with the principles of fairness in administrative law. Decision makers must act fairly when interacting with those affected by their decisions. This is consistent with Tla'amin law and is a requirement set out in Sections 9, 10 and 11 of the Elections Officials Oath of Office. (See paragraph 18, above)
52. The Panel notes the recitals included in the *Election Law* and other Tla'amin laws:

*F. Through our written Constitution and this Election Law, we reinforce our Nation's objectives including Tla'amin unity, good faith engagement among*

*ourselves and with our neighbours and maintaining enduring connections to our lands and resources;*

*G. Further, we are committed to pursuing the economic, social and cultural wellbeing of our Nation with the aim of sustaining and improving the quality of life for present and future Tla'amin generations;*

*H. It is our intention to accomplish this through a democratically elected government that is accessible, accountable, transparent and adheres to the principle of fairness;*

*I. We vow to keep our Ta'ow (teachings) and these principles in mind in all that we do as Tla'amin people. The Tla'amin Nation adopts this Law based on these values and principles;*

53. As a quasi-governmental official, the elections officer has a duty to act fairly in his or her decision-making capacity.
54. The Panel acknowledges that Section 33 of the *Election Law* imposes on the elections officer an obligation to strictly adhere to the Law. However, strict adherence does not relieve the elections officer from the duty to act fairly.
55. However, the application of principles of fairness, does not relieve the individual concerned with obligations to adhere to requirements imposed by the applicable laws and regulations. Mr. Peters had an obligation to file a full and complete Certification Package within the required time. The evidence is clear that he did not do so.
56. The Panel must then balance the failure to comply on the part of Mr. Peters with any breach of administrative fairness by the Elections Officer.
57. In this case before us, we have concluded that the appropriate standard of fairness was not met. Communication with the candidate did not meet a standard that should be applied when interacting with those who wish to engage in the democratic process. We note that the *Election Law* and the *Nomination Regulation* both reference a 7-day period to file the Certification Package. The evidence of Mr. Loose is that the Elections Officer's office was not open or available to nominees in the latter hours of the 7<sup>th</sup> day. Our conclusion is that this is a breach of the Elections Officer's Oath of Office. (See paragraph 18 above)
58. While the Panel agrees that the rules must be applied and fully acknowledges the importance of a document such as the Certificate of Qualification, our concern is the way the Certification Package Instruction Email was "provided to each nominee" as required in section 13 of the *Nomination Regulation* and section 28 of the *Election Law* which requires that the Elections Officer "must send a certification package... to each nominee..." no later than one day after the Nomination Meeting.
59. After carefully reviewing all the documentary evidence and hearing testimony from the parties, the Panel has concluded that, on a balance of probabilities, a Certification Package Instruction Email was not sent to or provided to Mr. Peters on 28 June 2024. This is a violation of Section 28 of the *Election Law* and Section 13

of the *Nomination Regulation*. We note that the Elections Officer has retained a copy of the cover email purporting to send the Certification Package in his client management system, but this is not sufficient evidence that the Certification Package Instruction Email was effectively sent or provided to Mr. Peters.

60. Mr. Peters' failure to file all necessary documents within the stipulated time frame can in part be attributed to the fact that he did not receive proper instructions in a timely manner and rushed to get his documents submitted on the deadline date.
61. The Panel is also of the view that the Elections Officer did not engage effectively with Mr. Peters who testified repeatedly of frustration in his attempts to communicate with the Elections Officer and his office. Mr. Loose never returned a phone call to Mr. Peters. Furthermore, Mr. Loose delayed in informing Mr. Peters of his decision not to certify Mr. Peters' candidacy until July 10, 2024. This is a further indication of a lack of transparency and openness.
62. The Panel notes that the *Election Law* and the *Nomination Regulation* do not require the attendance of a nominee at the Nomination Meeting and that OneFeather does not require any in-person meetings with candidates prior to their certification. The Panel is of the view that this imposes on the Elections Officer greater responsibility to ensure that
63. election officials perform their duties with due care and diligence and that the office of the Elections Officer is accessible and accountable to nominees.
64. Further, we note that not only did the Elections Officer object to the jurisdiction of the Panel once the decision was made by the Panel to proceed with the appeals, the Elections Officer did not respond in a timely way to correspondence from the Panel when asked to do so. This conduct impeded the process and showed a lack of understanding and respect for Tla'amin laws.

**Conclusion:**

65. For the reasons set out above, on August 19, 2024, the Panel issued an order allowing the appeal of Brandon Peters and directing that Mr. Peters be certified as a candidate in the Election.
66. As a final comment, the Panel would like to note that in reaching its final decision, the Panel has attempted to find a balance between the constitutional principles of fairness and accountability. The Panel acknowledges the importance of accountability, especially in the position of elected office, but it also places due weight on the principle of fairness in its consideration and interpretation of the facts at hand in this case.