

MEMORANDUM

To: Chairman Richard Cebra
From: William Logan, Esq.
Re: Affected Person under Party Rule 23
Date: February 22, 2013

QUESTION: Is Ken Anderson an “affected person” within the meaning of Rule 23 of the Rules and By-Laws (“the Rules”) of the Maine Republican Party (“the Party”)?

ANALYSIS: The term “affected person” is not defined within the Rules of the Party. However, the term presumes that the person filing the appeal have been negatively impacted by the appealed act. In this sense, the term is analogous to the legal concept of standing. Standing requires, at a minimum, a party to demonstrate: (1) that the party seeking redress has suffered an “injury in fact”; (2) that a causal relationship exists between the injury and the conduct complained of; and (3) that it is likely that the injury will be redressed by a favorable decision. *Lujan v. Defenders of Wildlife*, 504 U.S. 555 (1992).

The United States Supreme Court has addressed the issue of standing in several analogous situations. First, in considering a naked claim that a constitutional violation has occurred, the Court has said that such a claim, "would adversely affect only the generalized interest of all citizens in constitutional governance, and that is an abstract injury." *Schlesinger v. Reservists Committee To Stop the War*, 418 U.S. 208. This is true even though "citizens are the ultimate beneficiaries of those [constitutional] provisions," *Id.*

The Court has also addressed the rights of taxpayers to sue and concluded that they face the same bar. In *Frothingham v. Mellon*, 262 U.S. 447 (1923), the Court denied standing to a federal taxpayer who alleged that a spending bill was unconstitutional. Despite the fact that such bills may have the effect of taking money from the individual taxpayer and putting it to a purpose prohibited by the Constitution, the general rule remained that the taxpayer lacked standing because he "suffers in some indefinite way in common with people generally." *Id.* at 488. See also *Valley Forge Christian College v. Americans United for Separation of Church & State*, 454 U.S. 464.

If the Chair determines that the term affected person to be the equivalent of the concept of standing, it would appear that Mr. Anderson would not be an “affected person” since he demonstrates no particularized injury. He is not appealing as a candidate in an election, but rather simply as a general member of the Penobscot County Republican Committee. As such, the Supreme Court’s guidance in *Schlesinger* and *Frothingham* would lead to the conclusion that Mr. Anderson has not suffered a particularized injury and therefore is not an “affected person” and cannot avail himself of the provisions of Rule 23.