

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
Olga Vasquez

File No. 2008-094

FINDINGS AND CONCLUSIONS

The Complainant brought this Complaint pursuant to Connecticut General Statutes § 9-7b and alleged the Respondent, Shirley Surgeon failed to perform her duties as Democratic Registrar of Voters in the City of Hartford in the training of polling officials and the notification to candidates of such training.

After an investigation of the Complaint, the Commission makes the following findings and conclusions:

1. The Respondent was at all times relevant to the instant Complaint the Democratic Registrar of Voters for the City of Hartford and a candidate for Registrar of Voters in the August 12, 2008 Democratic primary.
2. The Complainant was at all times relevant to the instant Complaint the Respondent's opponent for Registrar of Voters in the August 12, 2008 Democratic primary.
3. The Complainant alleges that Respondent, in her capacity as Democratic Registrar of Voters during the August 12, 2008 Democratic primary failed to perform her duties as Registrar by:
 - a. Failing to give proper notification of mandatory training classes of polling place officials.
 - b. Unfairly selecting Supervised Ballot Counters.
 - c. Leaving out "certain candidates" from the notification process.
 - d. Failing to make accommodations for "certain Election Officials".
4. When a party holds a primary, that party's registrar is responsible for the conduct and administration of the primary. General Statutes § 9-436 (e), provides, in pertinent part:

(e) The registrar shall designate one of the moderators so appointed by the registrar to be head moderator or shall appoint as head moderator an elector who is not also moderator of a polling place and who shall be deemed a primary official. The registrar may also appoint a deputy head moderator to assist the head moderator in the performance of his duties. A deputy head moderator shall also be deemed to be a primary official. *Each registrar's appointments of primary polling place officials, except moderators of polling places, and of designees to conduct supervised voting of absentee ballots pursuant to sections 9-159q and 9-159r shall be divided equally, as nearly as may be, between designees of the party-endorsed candidates and designees of one or more of the contestants*, provided, if a party-endorsed candidate is a member of a party other than the one holding the primary, such primary officials, except voting machine mechanics, shall be enrolled

party members of the party holding the primary. Names of designees and alternate designees for such positions shall be submitted in writing by party-endorsed candidates and contestants to the registrar not later than ten days before the primary, except that names of designees and alternate designees for the position of moderator shall be so submitted not later than twenty-one days before the primary and, if such lists are not so presented, all such appointments shall be made by the registrar but in the above-mentioned proportion. ***The registrar shall notify all such candidates and contestants of their right to submit a list of designees under this section. . . .***

5. Further, General Statutes § 9-249, provides, in pertinent part:

(a) ***Before each election¹, the registrars of voters, certified moderator and certified mechanic shall instruct the election officials. . . .*** Such instructors shall, without delay, file a report in the office of the municipal clerk and with the Secretary of the State, (1) stating that they have instructed the election officials named in the report and the time and place where such instruction was given, and (2) containing a signed statement from each such election official acknowledging that the official has received such instruction.

(b) The election officials of such voting districts shall attend the elections training program developed under subdivision (1) of subsection (c) of section 9-192a and any other meeting or meetings as are called for the purpose of receiving such instructions concerning their duties as are necessary for the proper conduct of the election.

. . . .
(d) ***No election official shall serve in any election unless the official has received such instruction and is fully qualified to perform the official's duties in connection with the election,*** but this shall not prevent the appointment of an election official to fill a vacancy in an emergency. .

6. Complainant offered with her Complaint affidavits of three individuals whom she alleges were unfairly treated by the Respondent. The individuals allege variously that the Respondent sent notices with the improper time and then failed to accommodate individuals who attempted to attend training sessions for which they were not scheduled. The complainant offered no further support for the above four allegations.

7. In an affidavit signed by Victoria Gineyard she alleges that she received notice from the Respondent's office, a copy of which she attached as evidence, informing her that she would need to attend a mandatory training in order to serve as a ballot clerk. The notice set the place, date and time of the training as Hartford Town Hall on Saturday, July 26, 2008 at 10 P.M. Ms. Gineyard alleges that when she arrived at the

¹ General Statutes § 9-381a reads: "Except as otherwise provided by statute, the provisions of the general statutes concerning procedures relating to regular elections shall apply as nearly as may be, in the manner prescribed by the Secretary of the State, to primaries held under the provisions of this chapter."

designated training area on the date and time on the notice, Hartford Town Hall was closed and the security guard assigned to the property informed her that no such activity was scheduled at Town Hall at that time. Without notice to the Respondent, Ms. Gineyard attempted to attend a subsequent training session on Monday July 28, 2008 at 5 P.M., but was turned away because she was not scheduled for that date and time. In support of her allegation, the affiant included a letter from the Respondent which supports her allegation that 10 P.M. was the designated time of the training. However, neither the Complainant nor the affiant presented the Commission with any evidence to support the allegation that she was prevented scheduling her attendance at any future training.

8. An affidavit signed by Gladys Ellis alleges that she also received a notice from the Respondent to attend a mandatory training session for Saturday, July 26, 2008 at Hartford City Hall. She states that she was not able to attend that day because of a previously scheduled family matter, but she attempted to attend on Monday, July 28, 2008, but was also turned away because she was not scheduled for that date and time. Neither the Complainant nor the affiant presented the Commission with any evidence to support this allegation.
9. Finally, in an affidavit signed by Gwendolyn S. Williams she alleges that she received notice to attend a mandatory poll worker training, but that when she attended the training a poll worker instructor did not allow her to take the training. Ms. Williams alleges that the instructor did not let her take the training because Ms. Williams "forgot to sign in," but Ms. Williams alleges that she was never given the chance to sign in. Neither the Complainant nor the affiant presented the Commission with any further evidence to support this allegation.
10. The Respondent answered each allegation in the Complaint with specific denials and evidence in her defense.
11. In response to Complainant's first, third and fourth allegations, the Respondent submitted evidence that on or about June 25, 2008, she mailed to all candidates a package of materials which included, *inter alia*, a full schedule of available poll worker training sessions and forms for the candidates to designate official and unofficial polling place workers. The Respondent included in her defense a copy of the package of materials letter sent to the Complainant herself.
12. In further response to the first allegation, she confirmed that a mistake had been made by her office on the notices for the July 26, 2008 training; the letter read 10 P.M. when the training was actually at 10 A.M. on that day. However, the Respondent indicated that the mistake was discovered prior to the date of the training and that attempts were made contact all of the workers who were scheduled to attend the training on the July 26th. Unfortunately, some individuals were not successfully contacted about the mistake as the contact information for all of the designated polling place workers was not provided with the submissions from the Complainant and the Respondent's office was unable to make contact with the individuals by independent means. And, since the next training session scheduled for July 28, 2008 was at capacity, she was unable to accommodate those individuals who were not signed up to attend that particular session.

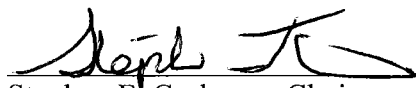
13. However, according to the Respondent, subsequent trainings did have openings and she made reasonable efforts to accommodate those individuals who received incorrect notices for the July 26th session. As shown in supporting documentation submitted by the Respondent in her defense, the first affiant, Ms. Gineyard, was accommodated at a August 6, 2008 training and did attend, as shown by her signature on the "Oath of Office for Polling Place Officials" form.
14. Finally, in response to the Complainant's allegation that Supervised Ballot Counters were unfairly selected, the Respondent maintains that designated Supervised Ballot Counters were selected in equal measure from the lists provided by both the endorsed and the challenge slates for the August 12, 2008 primary. She indicated that only when individuals became unavailable on the date of the primary were they replaced and when such need arose, she made efforts to keep the ratio even between poll workers designated by the endorsed and challenge slates, "as nearly as may be," in accordance with General Statutes § 9-436 (e).
15. Turning first to the Complainant's allegation that the Respondent failed to give proper notification of mandatory training classes of polling place officials, the Commission finds that sufficient evidence was presented by the Respondent to show that reasonable notice was given to both the candidates and their designated polling place officials. Moreover, the Commission finds that while the Respondent's office did make an error regarding the July 2, 2008 training session, reasonable efforts were made to accommodate polling place worker training in subsequent sessions, such that the Respondent met her burden under General Statutes § 9-249 of providing instruction to election officials at such primary.
16. Complainant further alleges that the Respondent unfairly selected supervised ballot counters. However, none of the evidence submitted with the Complaint supports this allegation. Further, the Respondent provided statements and evidence that she selected all of the polling place workers from the lists provided by the endorsed and challenge slates and that she made efforts to divide the positions equally, "as nearly as may be," between designees of the party-endorsed candidates and designees of the contestants, all in accordance with General Statutes § 9-436 (e).
17. Complainant further alleges that the Respondent failed to include "certain candidates in the notification process." However, the Complainant presented the Commission with no evidence to support this allegation. Further, the Respondent submitted sufficient evidence to show that notice was given to the Complainant, her opponent, of her right to designate polling place workers under General Statutes § 9-436 (e).
18. Finally, Complainant alleges that the Respondent failed to make accommodations for the training of polling place officials. While Complainant did submit evidence that polling place officials may not have been accommodated on their preferred date for training, the Commission finds that the Respondent submitted sufficient evidence to show that by offering multiple training sessions, reasonable accommodations were made such that the Respondent satisfied her responsibilities under General Statutes § 9-249 (a).

ORDER

The following Order is recommended on the basis of the aforementioned findings:

That the Complaint be dismissed.

Adopted this 26th day of January, 2011 at Hartford, Connecticut.



Stephen F. Cashman, Chairperson
By Order of the Commission