

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

Complaint by Shirleyann Dunbar-Rose, Groton

File No. 2012-053

FINDINGS AND CONCLUSIONS

The Complainant brings this Complaint pursuant to Connecticut General Statutes § 9-7b, alleging that the Respondent impermissibly entered a polling place during voting hours in violation of General Statutes § 9-236.

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

1. On April 24, 2012, the presidential preference primary for the Republican Party was held in the City of Groton.
2. Complainant here was the moderator of the District 3 polling place in the City of Groton, located in the Groton Municipal Building.
3. For this presidential preference primary, the Respondent, Kristin Venditti, was the head moderator for the City of Groton and was also the moderator of the District 8 polling place.
4. Complainant alleges, and the Respondent does not dispute, that at approximately 4:25 P.M. on the day of the presidential primary, Respondent entered the District 3 polling place with the stated purpose of obtaining a table and chairs stored in the polling place and removing them out into the hallway between the outside doors leading to the building and the interior door to the polling place so that a town youth football league could use them for signing up participants.
5. Complainant alleges, and recorded in the moderator's diary, that prior to Respondent's appearance in the polling place, the Complainant had spoken to the representatives of the youth football league and told them that she had concerns about the tables causing a disruption in the traffic to the polling place and that they would need to remove to a different area of the building.
6. While the parties disagree about the specifics of what was discussed and the tone of the conversation, they do not dispute that upon Respondent's entry into the polling place, the parties spoke and disagreed over Complainant's decision to ask the youth football league representatives to move.

7. The Respondent spent approximately 5-6 minutes in the polling place. No voters were present or casting their ballots during the time that the Respondent was present in the polling place. The moderator's diary reflects that the Complainant asked Respondent to leave the polling place twice and that the Respondent left after the second time. The Respondent denies being asked to leave.
8. The Commission notes that the Complainant does not allege, and there is no evidence to suggest, that the Respondent ever campaigned, loitered, or peddled any campaign materials during the time that she was present within the 75' restricted area.
9. The issue before the Commission remains whether Respondent was permitted inside the polling place under the facts of this case.
10. Here, Respondent asserts that it was her belief, which she expressed to the Complainant at the time, that as head moderator she was permitted inside the District 3 polling place because she was an "election official."
11. General Statutes § 9-236 reads, in pertinent part:

(a) On the day of any primary, referendum or election, *no person shall solicit on behalf of or in opposition to the candidacy of another or himself or on behalf of or in opposition to any question being submitted at the election or referendum, or loiter or peddle or offer any advertising matter, ballot or circular to another person within a radius of seventy-five feet of any outside entrance in use as an entry to any polling place or in any corridor, passageway or other approach leading from any such outside entrance to such polling place or in any room opening upon any such corridor, passageway or approach, except as provided in section 9-294.* Nothing contained in this section shall be construed to prohibit (1) parent-teacher associations or parent-teacher organizations from holding bake sales or other fund-raising activities on the day of any primary, referendum or election in any school used as a polling place, provided such sales or activities shall not be held in the room in which the election booths are located, (2) the registrars of voters from directing the officials at a primary, referendum or election to distribute, within the restricted area, adhesive labels on which are imprinted the words "I Voted Today", or (3) the registrars of voters in a primary, election or referendum from jointly permitting nonpartisan activities to be conducted in a room other than the room in which the election booths are located. The registrars may jointly impose such conditions and limitations on such nonpartisan activity as deemed necessary to ensure the orderly process

of voting. *The moderator shall evict any person who in any way interferes with the orderly process of voting.*

(b). . . (3) The moderator and the moderator's assistants shall meet at least twenty minutes before the opening of a primary, referendum or an election in the voting district, and shall cause to be placed by a police officer or constable, or such other primary or election official as they select, a suitable number of distance markers. *Such moderator or any police officer or constable shall prohibit loitering and peddling of tickets within that distance.*

(c) *No person except those permitted or exempt under this section or section 9-236a and primary or election officials and party checkers appointed under section 9-235 shall be allowed within any polling place except for the purpose of casting his vote.* Representatives of the news media shall be allowed to enter, remain within and leave any polling place or restricted area surrounding any polling place to observe the election, provided any such representative who in any way interferes with the orderly process of voting shall be evicted by the moderator. A number of students in grades four to twelve, inclusive, not to exceed four at any one time in any one polling place, may enter any polling place between twelve o'clock noon and three o'clock p.m. for the purpose of observing the activities taking place in the polling place, provided there is proper parental or teacher supervision present, and provided further, any such student who in any way interferes with the orderly process of voting shall be evicted by the moderator. An elector may be accompanied into any polling place by one or more children who are fifteen years of age or younger and supervised by the elector if the elector is the parent or legal guardian of such children. Any person who violates any provision of this section or, while the polls are open for voting, removes or injures any such distance marker, shall be fined not more than fifty dollars or imprisoned not more than three months, or both. (Emphasis added.)

12. Section 9-242a-6 of the Regulations of Connecticut State Agencies reads, in pertinent part:

The election officials of each polling place shall consist of a certified moderator, at least one but not more than two official checkers for each line of electors, two registrars of voters or two assistant registrars of voters, as the case may be, of opposing political parties, at least one but not more than two voting tabulator tenders, at least one but not more than two ballot clerks, zero to two challengers and zero to two demonstrators. Demonstrators shall be appointed for the first election or primary at which the tabulator is used in the municipality. Subsequently, demonstrators shall be optional and other

polling place officials of opposing political parties may demonstrate. Each registrar shall appoint half the number of each of such officials in a polling place. If absentee ballots are counted at the polls, other officials may perform this function, but, if needed, each registrar shall appoint half the absentee ballot counters who shall count in teams of two. If there is central counting of absentee ballots, the registrars shall appoint a central counting moderator and each registrar shall appoint half the absentee ballot counters who shall count in teams of two. In a primary, the registrar of the party holding the primary shall appoint one or two assistant registrars and shall divide the polling place officials equally as nearly as may be between designees of the party-endorsed candidates and designees of the challenging candidates. In a primary, the term “opposing political parties” as used in sections 9-242a-1 to 9-242a-28, inclusive, of the Regulations of Connecticut State Agencies, shall mean polling place officials designated by opposing candidacies in the primary. In a primary, the assistant registrar, when performing duties under sections 9-242a-8, 9-242a-9, 9-242a-22, 9-242a-23 and 9-242a-27 of the Regulations of Connecticut State Agencies, and the registrar, when performing duties under sections 9-242a-25 and 9-242a-28 of the Regulations of Connecticut State Agencies, shall be accompanied by another polling place official, and one shall be the designee of the party-endorsed candidates and the other shall be the designee of the challenging candidates except in a presidential preference primary where, to the extent practicable, they shall be representatives of opposing candidates. In a presidential preference primary at which no other position is on the ballot, the minimum number of official checkers, voting tabulator tenders and ballot clerks shall be one of each such office, and if two such presidential preference primaries are held on the same day, the registrars may appoint one moderator and one head moderator to serve both primaries. (Emphasis added.)

13. In addition to elections officials, other individuals permitted in the polling place include: Unofficial checkers, runners, news media, persons assisting electors who are disabled or unable to read or write, certain children, certain students, PTO bake sale participants in schools (but not in the room with the voting machines are located) as well as certain other non-partisan activities specifically authorized by the registrars of voters. See General Statutes §§ 9-235, 9-235b, 9-236, 9-258, 9-261, 9-264 & 9-436a; § 9-242a-6 of the Regulations of Connecticut State Agencies, *supra*.
14. As an initial matter, the Commission concludes that a head moderator is not an “election official” for purposes of General Statutes § 9-236 and is not permitted to enter any polling place solely on the basis that such person holds such title.

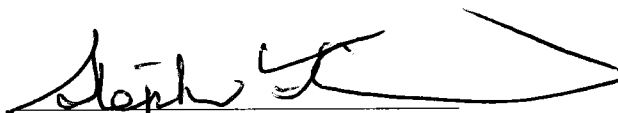
15. Moreover, the Commission concludes that a moderator from one polling place is also not an “election official” at any other polling place for purposes of General Statutes § 9-236 and is not permitted to enter such other polling place solely on the basis that such person holds such title.
16. Considering the aforesaid, the Commission concludes that the Respondent here was not permitted to enter the District 3 polling place for any reason other than to cast a ballot.
17. The Commission further concludes that it was the Complainant’s duty as moderator to ensure the orderly process of voting in the District 3 polling place and it was her duty to remove the Respondent from the polling place.
18. Moreover, it was permissible for the Complainant, as the moderator, to impose reasonable restrictions on non-partisan activity occurring within a 75’ radius of the outside entrance leading to the polling place. However, where, as here, the building housing the polling place serves other additional purposes, it is important for the moderator to seek accommodation between the multiple uses, so long as the non-election activity does not disrupt the orderly process of voting.
19. In consideration of the aforesaid, the Commission concludes that the evidence is sufficient to establish that Respondent’s presence within the polling place was not permissible under General Statutes § 9-236 (c).
20. However, the Commission also concludes that there were factors that mitigate in this instance: The Respondent entered the polling place with the reasonable belief that she was a permitted “election official;” the Respondent remained at the room housing the voting machines for no more than 5-6 minutes; no voters were present casting ballots during the period in which the Respondent was located therein; and there is no evidence that the Respondent campaigned, loitered, or peddled any campaign materials during the time that she was within the 75’ restricted area. As such, the Commission will take no further action regarding these allegations.

ORDER

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

That no further action be taken.

Adopted this 22nd day of August, 2012 at Hartford, Connecticut.

A handwritten signature in black ink, appearing to read "Stephen F. Cashman", written over a horizontal line.

Stephen F. Cashman, Chairperson
By Order of the Commission