

**STATE OF CONNECTICUT**  
**STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by Michael Bergeron  
New London

File No. 2015-163

**FINDINGS & CONCLUSIONS**

Complainant Michael Bergeron of New London filed this complaint pursuant to Connecticut General Statutes § 9-7b alleging that an election official wrongly advised him about completing his ballot in the November 3, 2015 municipal election and frustrated his intention to vote for certain candidates. After investigating the allegations raised in the complaint the Commission makes the following findings and conclusions:

1. Complainant Michael Bergeron is a registered elector in the City of New London, voting at the New London High School polling location.
2. Complainant alleged that when he attempted to vote in the November 3, 2015 election, an election official at the polling place instructed him that he could not vote for two individuals in the same vertical column when casting his vote for board of education.<sup>1</sup> Complainant then voted for two individuals who were not in the same vertical column, even though his original intention was to vote for another pair of candidates.<sup>2</sup>
3. The relevant portion of the sample ballot for the November 3, 2015 municipal election in New London reflects that electors were directed to “vote for any seven” of the 12 candidates listed on the ballot running for Board of Education.<sup>3</sup> In addition, the instructions for the ballot state: “In the case of an office for which you may vote for two or more candidates, you may mark your ballot for the proper number of candidates anywhere in that group *even though one may be directly below the other.*”<sup>4</sup>
4. Complaint provided a physical description of the election official who instructed him that he could not vote for two candidates in the same column but could not identify the individual by name.<sup>5</sup>

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<sup>1</sup> See Affidavit of Complaint, Michael Bergeron, New London, SEEC File No. 2015-163 (State Elections Enforcement Comm’n., Rec’d Nov. 12, 2015) (alleging that election official had provided incorrect instructions at polling station).

<sup>2</sup> *Id.*

<sup>3</sup> See Official Ballot, New London, Connecticut – Municipal Election (November 3, 2015) (reflecting layout of ballot in November 2015 municipal election in New London).

<sup>4</sup> *Id.* (emphasis added).

<sup>5</sup> See Affidavit of Complaint, *supra* at footnote 1.

5. Commission staff attempted to identify the election official who purportedly provided inaccurate instructions but have not been able to find that person.<sup>6</sup>

6. General Statutes § 9-363 provides:

*Any person who, with intent to defraud any elector of his or her vote or cause any elector to lose his or her vote or any part thereof, gives in any way . . . any improper, false, misleading or incorrect instructions or advice or suggestions as to the manner of voting on any tabulator, the following of which or any part of which would cause any elector to lose his or her vote or any part thereof, or would cause any elector to fail in whole or in part to register or record the same on the tabulator for the candidates of his or her choice, shall be guilty of a class D felony.*<sup>7</sup>

7. Despite a thorough investigation, the Commission has been unable to identify the election official at issue here. The Commission also has found no evidence to establish that an election official provided inaccurate instruction to the Complainant, and no evidence to meet the statutory requirement that if an election official did supply inaccurate instructions, that the official did so with the intent to defraud the elector or make him lose any part of his vote, as required under General Statutes § 9-363.

8. Based on the lack of evidence to support Complainant's allegations and meet the statutory requirement of intent to defraud or disenfranchise an elector, the Commission will dismiss this matter.

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<sup>6</sup> As part of the investigation, staff contacted Bill Giesling, Democratic Registrar of Voters for the City of New London, who provided the moderator's journal for that polling location as well as a list of poll workers there. The moderator of the New London High School polling location, Rosemarie Butler, responded to questions from Commission staff. Both she and two other workers, all of whom roughly met the general description of the election official that helped Complainant with his questions, were questioned as to whether they recalled speaking with Complainant. None of the potential respondents identified through this investigation recalled speaking with Complainant. The moderator's journal also lacked any mention of an exchange like the one that Complainant described.

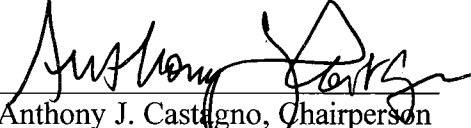
<sup>7</sup> General Statutes § 9-363 (creating liability for individuals who provide false instructions to electors).

**ORDER**

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

This case will be dismissed.

Adopted this 13<sup>th</sup> day of April, 2016 at Hartford, Connecticut.

  
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Anthony J. Castagno, Chairperson  
By Order of the Commission