



STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

***Resolution and Order Denying Petition of David Godbout
for Declaratory Ruling***

Pursuant to General Statutes §§ 4-176 (e) & 9-7b and Connecticut Agency Regulations § 9-7b-65 (c), it is hereby resolved and ordered that the State Elections Enforcement Commission (the “Commission”) will not issue a declaratory ruling in response to the Petition for Declaratory Ruling filed by David Godbout (the “Petitioner”). The reasons for the Commission’s action are set forth below.

The Petition for Declaratory Ruling was filed on December 1, 2015. The petition alleges that on the most recent municipal election day, various Girl Scout organizations sold cookies within 75 feet of the entrances to two polling places in East Lyme, Connecticut in violation of General Statutes § 9-236. The petition further alleges that when the Petitioner complained to a registrar of voters, the registrar, without statutory authority, informed the petitioner that she had granted the Girl Scouts permission to be within the 75-foot radius.

The petition requests that the Commission make the following three findings:

- 1) Registrars cannot grant exceptions and/or exemptions beyond those already provided by the legislature of this state
- 2) The organization of the Girl Scouts [is] prohibited from peddling within 75 feet of the polling places’ entrances on election day
- 3) The only peddlers allowed [are] those specifically noted within [General Statutes § 9-236] to be of true and actual teacher-parent organizations.

Request for Declaratory Ruling (Presence of Girl Scouts within 75’ of polling place allowed under Connecticut Law (CGS § 9-236) or not and other requested rulings included, submitted by David Godbout (Dec. 1, 2015).

Because the Petitioner seeks a declaratory ruling on the past action of third parties, the Commission’s regulations preclude issuance of such declaratory ruling. “The Commission shall not issue a declaratory ruling when the subject of the petition concerns actions of a third party which have occurred.” Regs., Conn. State Agencies § 9-7b-63. However, the regulations afford the Petitioner another remedy: where a petitioner requests a declaratory ruling based on third party past conduct, “the Commission shall notify the petitioner of the complaint procedure as contained in Section 9-7b-25 of the regulations of Connecticut state agencies.” Regs., Conn. State Agencies § 9-7b-63.

The regulations instruct, in relevant part:

- (a) All complaints shall be in writing and sworn to under oath by the individual submitting same and should include the following components:
 - (1) The legal name, address and telephone number of each such individual.
 - (2) A concise and explicit statement of facts bearing upon the violation asserted, including, but not limited to, the items that follow:
 - (A) The date of the alleged violation of any provision of the General Statutes pertaining to or relating to any election, primary or referendum and the appropriate statutory reference or references, if known.
 - (B) The identity of the person alleged to have committed such violation.
 - (C) The identity of any other person who may have knowledge of the facts asserted in the complaint.
 - (D) Any other document or real evidence bearing upon the violation alleged in the complaint.

Regs., Conn. State Agencies § 9-7b-25. The Commission's website contains a link to the Affidavit of Complaint, which contains relevant instructions.¹

Because the Petitioner seeks a ruling based on allegations about the past conduct of third parties, the Commission denies the Petitioner's request for a declaratory ruling.

To the extent the Petitioner requests the Commission to issue a declaratory ruling interpreting the prospective application of General Statutes § 9-236, the Commission denies this request, because these types of election administration compliance and interpretation questions fall squarely within the jurisdiction of the Office of the Secretary of the State.² General Statutes § 9-3 provides that:

The Secretary of the State, by virtue of the office, shall be the Commissioner of Elections of the state, with such powers and duties relating to the conduct of elections as are prescribed by law and, unless otherwise provided by state statute, the secretary's regulations, declaratory rulings, instructions and opinions, if in written form, shall be presumed as correctly interpreting and effectuating the administration of elections and primaries under this title, except for chapter 155, provided nothing in this section shall be construed to alter the right of appeal provided under the provisions of chapter 54.

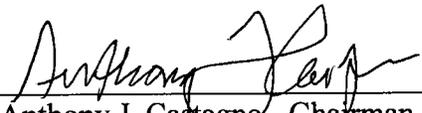
¹ On November 12, 2015, the Commission received two complaints filed by the Petitioner relating to the 75-foot rule. The complaint in SEEC File No. 2015-161 alleges that the two respondents were campaigning within 75 feet of a polling place in East Lyme, Connecticut. The complaint in SEEC File No. 2015-162 names "various elections officials" as the respondents and alleges that the Petitioner's First Amendment/free speech rights were violated when he was not allowed within 75 feet of a polling place for the purpose of "providing people access to public records that were affixed to a poster." The allegations in these complaints do not appear to be based on the same past action of third parties on which the Petitioner seeks this declaratory ruling.

² Any questions the Petitioner may have concerning the Secretary of the State's procedures for requesting a declaratory ruling should be directed to that office.

By contrast, General Statutes § 9-7b (a) (14) & (17) vests this Commission with the authority to issue advice regarding the requirements of Chapters 155 and 157 of the General Statutes, and to provide the Secretary of the State with notice and copies of opinions and judgements.

For the reasons set forth above, the Commission denies the Petitioner's request for a declaratory ruling.

Adopted this 13 day of JAN, 2016, at Hartford, CT by vote of the Commission.



Anthony J. Castagno - Chairman
By Order of the Commission