

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

Complaint of Lee Toffey,
Plainville

File No. 2009-130

FINDINGS AND CONCLUSIONS

Complainant filed the instant complaint with the Commission on November 3, 2009 pursuant to General Statutes §9-7b, alleging that the Plainville Town Clerk, Carol Skultety, violated General Statutes §§ 9-168 and 9-169 in connection with the November 3, 2009 Municipal Election.

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

1. Complainant, the Chairman of the Plainville Republican Town Committee (hereinafter Plainville RTC) bases her complaint on a conversation one of her campaign co-chairs had with the Republican Registrar of Voters, Beth Gasperini in connection with the November 3, 2009 election. Specifically, the campaign co-chair inquired where the polling places would be for the the November 3, 2009 election and she was informed by the Republican Registrar of Voters that the polling places would be the same as the previous year.
2. Complainant alleged that based on this conversation and a Legal Notice dated October 22, 2009 sent to local Plainville newspapers warning of the election and alerting the public of the polling place locations for the November 2009 election provided by the Plainville Town Clerk that the Town Clerk violated General Statutes §§ 9-168 and 9-169 by failing to timely change the polling place location and by failing to provide written confirmation of the polling place location change.
3. Prior to November 2007, the Toffolon Elementary School had been the established polling place for District 3 in Plainville.
4. In 2007, the Toffolon Elementary School underwent a renovation and expansion project and was not available as a polling place.
5. In July 2007, the Plainville Registrars of Voters requested that the Middle School of Plainville be used as the interim polling place for District 3 because Toffolon Elementary School was not available. In August 2007, the Plainville Town Council considered the request and voted to temporarily change the District 3 polling place to the Middle School of Plainville.

6. Accordingly, the Middle School of Plainville served as the District 3 polling place for the 2007 Municipal Elections in Plainville.
7. In 2008, the Toffolon Elementary School was still undergoing a renovation and expansion project and was not available as a polling place.
8. In August 2008, the Plainville Registrars of Voters again requested that the Middle School of Plainville be used as the interim polling place for District 3 because Toffolon Elementary School was not available. In September 2008, the Plainville Town Council considered the request and voted to temporarily change the District 3 polling place to the Middle School of Plainville.
9. Accordingly, the Middle School of Plainville served as the District 3 polling place for the 2008 Presidential Election in Plainville.
10. The Toffolon School Elementary School project was completed in the Spring of 2009 and was available for use as a polling place for the 2009 Municipal Elections.
11. The Plainville Registrars of Voters did not make a request to use the Middle School of Plainville as the District 3 polling place for the November 2009 Municipal Election.
12. On or about September 28, 2009, the Registrars made a request to the Business Manager of the Plainville Community Schools to use the Toffolon Elementary School cafeteria for the Municipal Election on November 2nd and 3rd. The request was granted on October 15, 2009.
13. On October 22, 2009, the Plainville Town Clerk, Carol A Skulety provided a Legal Notice Warning of the Election and Location of the Polling Places. The Legal Warning indicated that the District 3 polling place was Toffolon Elementary School.
14. General Statutes § 9-168 provides:

In any town not divided into voting districts, the place of holding elections may be determined by the legislative body of such town. In towns divided into voting districts the place of holding elections shall be determined as provided in section 9-169 or any special act, whichever applies. *Except as provided in section 9-169a, state elections shall be held at the usual place or places of holding elections in the town or the voting districts thereof, as the case may be, unless the registrars of voters, in writing, have designated to the clerk of such town, at least thirty-one days before any such state election, a different place or places for holding such election.* Unless otherwise provided by special act, the

place of holding city or borough elections shall be determined by the legislative body of such city or borough. Any provision of any charter or special act to the contrary notwithstanding, the place or places of holding an election shall be determined at least thirty-one days prior to such election, and such place or places shall not be changed within the period of thirty-one days prior to such election except that, if the municipal clerk and registrars of voters of a municipality unanimously find that any such polling place within such municipality has been rendered unusable within such period, they shall forthwith designate another polling place to be used in place of the one so rendered unusable and shall give adequate notice that such polling place has been so changed. [Emphasis added.]

15. General Statutes § 9-169 provides:

The legislative body of any town, consolidated town and city or consolidated town and borough may divide and, from time to time, redivide such municipality into voting districts. The registrars of voters of any municipality taking such action shall provide a suitable polling place in each district but, if the registrars fail to agree as to the location of any polling place or places, the legislative body shall determine the location thereof. *Polling places to be used in an election shall be determined at least thirty-one days before such election, and such polling places shall not be changed within said period of thirty-one days except that, if the municipal clerk and registrars of voters of a municipality unanimously find that any such polling place within such municipality has been rendered unusable within such period, they shall forthwith designate another polling place to be used in place of the one so rendered unusable and shall give adequate notice that such polling place has been so changed.* The registrars of voters shall keep separate lists of the electors residing in each district and shall appoint for each district a moderator in accordance with the provisions of section 9-229 and such other election officials as are required by law, and shall designate one of the moderators so appointed or any other elector of such town to be the head moderator for the purpose of declaring the results of elections in the whole municipality. The registrars may also designate a deputy head moderator to assist the head moderator in the performance of his duties provided the deputy head moderator and the head moderator shall not be enrolled in the same major party, as defined in subdivision (5) of section 9-372. The selectmen, town clerk, registrars of voters and all other officers of the municipality shall perform the duties required of them by law with respect to elections in each voting district established in accordance with this section. Voting district lines shall not be drawn by a municipality so as to conflict with the lines of congressional districts, senate districts or assembly districts as established by law, except (1) as provided in section 9-169d and (2) that as to municipal elections, any part of a split voting

district containing less than two hundred electors may be combined with another voting district adjacent thereto from which all and the same officers are elected at such municipal election. Any change in the boundaries of voting districts made within ninety days prior to any election or primary shall not apply with respect to such election or primary. The provisions of this section shall prevail over any contrary provision of any charter or special act. [Emphasis added.]

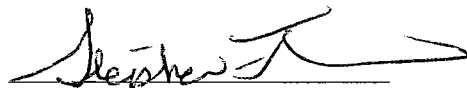
16. The Toffolon Elementary School polling place is the usual place of holding elections in Plainville's District # 3 and as such, that was the usual place for holding elections in 2009 in District # 3, there are no violations of Gen. Stat. §§ 9-168 and 9-169.
17. Gen. Stat. §9-169 requires that when any such polling place within such municipality has been rendered unusable within 31 days, the Town Clerk and Registrars of Voters shall forthwith designate another polling place to be used in place of the one so rendered unusable and shall give adequate notice that such polling place has been so changed.
18. In the instant case, the Toffolon Elementary School was the polling place and no designation needed to be made nor was one made that the Middle School of Plainville was rendered unusable because it was an interim or temporary polling place for District 3 in 2007 and 2008 and not the polling place for District 3 in 2009, regardless of what the Republican Registrar of Voters told the Plainville RTC co-campaign manager.
19. Accordingly, the Town Clerk did not violate Gen. Stat. §§ 9-168 and 9-169 as alleged by the Complainant and there is no evidence to support the Complainant's allegation that the polling place was changed in violation of Gen. Stat. §§ 9-168 and 9-169.
20. The complaint is dismissed for the above mentioned reasons.

ORDER

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

That the matter be dismissed.

Adopted this 18th day of August 2010 at Hartford, Connecticut


Stephen F. Cashman, Chairman
By Order of the Commission