

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Marilyn Higgins, Hampton

File No. 2013-105

FINDINGS AND CONCLUSIONS

The Complainant, the Hampton Republican Registrar of Voters brings this Complaint pursuant to Connecticut General Statutes § 9-7b, alleging that Respondent Dayna McDermott-Arriola, the Democratic Registrar of Voters, failed to sufficiently coordinate certain shared duties of the Hampton Registrars' Office for two referenda held in the Town of Hampton on May 23, 2013 and May 29, 2013. The Complainant also alleges that Respondent Sarah McDermott was impermissibly present within the polling place for the May 23, 2013 referendum.¹

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

1. The Complainant was at all times relevant to the instant matter, the Hampton Republican Registrar of Voters.
2. Respondent McDermott-Arriola was at all times relevant to the instant matter, the Hampton Democratic Registrar of Voters.
3. Four referenda were held in the Town of Hampton concerning the budget for the upcoming year. The facts of this case concern the budget referenda held on May 23, 2013 and May 29, 2013.
4. The May 23, 2013 and May 29, 2013 referenda were held pursuant to an adjourned town meeting under General Statutes § 7-7 and local ordinances and were not held in conjunction with any election or primary.

¹ The following are the Commission's findings and conclusions based on those portions of the Complainant's statement of complaint which the Commission could reasonably construe as alleging facts amounting to a specific violation of those laws within the Commission's jurisdiction. Any statements within the Complaint not addressed herein either did not specifically allege a violation or alleged facts which if proven true would not have amounted to a violation within the Commission's jurisdiction.

COUNT ONE: Impermissible Presence in a Polling Place by Respondent Sarah McDermott

5. The Complainant alleges that at the May 23, 2013 referendum, “[f]rom 1:30 to 2:30 Dayna’s [Respondent McDermott-Arriola’s] daughter, Sarah McDermott sat on a sofa in the polling place visiting with [Assistant Registrar] Matt [LaFontaine]. She had already voted, but she stayed for an hour talking and eating a cupcake.” Other than her own statement, the Complainant submitted no evidence or witnesses in support of this allegation.

6. 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. Nothing contained in this section shall be construed to prohibit (1) parent-teacher associations or parent-teacher organizations from holding bake sales or other fundraising 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.

...

(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.)

7. Any voter lawfully within the room in which the voting is taking place who has completed executing and casting a ballot must forthwith leave the room, as such voter's lawful purpose for being in the room expires at that point. General Statutes § 9-261 reads, in pertinent part:

(a) In each primary, election or referendum, when an elector has entered the polling place, the elector shall announce the elector's street address, if any, and the elector's name to the official checkers in a tone sufficiently loud and clear as to enable all the election officials present to hear the same. Each elector who registered to vote by mail for the first time on or after January 1, 2003, and has a "mark" next to the elector's name on the official registry list, as required by section 9-23r, shall present to the official checkers, before the elector votes, either a current and valid photo identification that shows the elector's name and address or a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the elector. Each other elector shall (1) present to the official checkers the elector's Social Security card or any other preprinted form of identification which shows the elector's name and either the elector's address, signature or photograph, or (2) on a form prescribed by the Secretary of the State, write the elector's residential address and date of birth, print the elector's name and sign a statement under penalty of false statement that the elector is the elector whose name appears on the official checklist. Such form shall clearly state the

penalty of false statement. A separate such form shall be used for each elector. If the elector presents a preprinted form of identification under subdivision (1) of this subsection, the official checkers shall check the name of such elector on the official checklist. If the elector completes the form under subdivision (2) of this subsection, the registrar of voters or the assistant registrar of voters, as the case may be, shall examine the information on such form and either instruct the official checkers to check the name of such elector on the official checklist or notify the elector that the form is incomplete or inaccurate.

...

(e) If not challenged by anyone lawfully present in the polling place, the elector shall be permitted to pass to the separated area to receive the ballot. The elector shall give any receipt the elector has received to a ballot clerk who shall give the elector a ballot to vote only in the primary of the party specified by the receipt. The elector shall be permitted into the voting booth, and shall then register his or her vote in secret. **Having voted, the elector shall immediately exit the voting booth and deposit the ballot in the voting tabulator and leave the room.** No elector shall remain within the voting booth longer than the time necessary to complete the ballot, and, if the elector refuses to leave such booth after completing the ballot, the elector shall at once be removed by the election officials upon order of the moderator. Not more than one elector at a time shall be permitted to be within the enclosed space which the elector occupies while the elector completes his or her ballot, provided an elector may be accompanied within such enclosed space 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. At least two additional electors, whose next turn it is to vote shall be permitted in the polling area for the purpose of receiving a ballot. If any elector, after entering the voting booth, asks for further instruction concerning the manner of voting, the election officials shall give such instructions or directions to the elector; but no election official instructing or assisting an elector, except as provided in section 9-264, shall look at the ballot in such a way as to see the elector's markings or in any manner seek to influence any such elector in the casting of the elector's vote. (Emphasis added.)

8. The Commission has held that a delay of even a few minutes after voting could trigger a violation of General Statutes § 9-236 (c). See, e.g., *In the Matter of a Complaint by Sharon Benedict, Roxbury*, File No. 2013-089 (Respondent, a candidate on the ballot, violated § 9-236 (c) by remaining in the polling place after casting his ballot in order to speak to his

daughter, a polling place worker, and to assist her in setting up her computer; henceforth order with no civil penalty).

9. However, *Benedict*, unlike here, involved a candidate, which the Commission generally holds to a lower threshold when considering if a violation of General Statutes § 9-236 has occurred. In past matters, the Commission has concluded that barring some legitimate non-election related reason for being within the restricted area (using a restroom, passing through the area to go to some other part of the building outside of the restricted zone) any candidate remaining within the restricted area is by his very presence soliciting on behalf of his candidacy and/or loitering, both of which are impermissible under subsection (a) and (c) of § 9-236. See *Benedict*, supra; *In the Matter of a Complaint by Ira Johnson, New Haven*, File No. 2007-350; and *In the Matter of a Complaint by Victoria S. Harlow, Haddam*, File No. 2006-167.
10. Here, while Respondent McDermott was not a candidate and should not be held to as strict a threshold, the Complainant alleges that she remained within the room for an hour, talking to the assistant registrar of voters, which, if supported, would be a violation of General Statutes § 9-236 (c).
11. Respondent McDermott generally denies the Complainant's allegation. She asserts that after casting her ballot, she received a cupcake from her mother, Respondent Dayna McDermott-Arriola, as it was her birthday. She asserts that the other individuals working at the polls that day, with the exception of the Complainant, wished her a happy birthday, but asserts that no long conversation with Assistant Registrar Matt LaFontaine occurred and that she did not linger.
12. Respondent McDermott submitted statements in support of her denial from Moderator Marjorie Newcombe, Assistant Registrar Matt LaFontaine, Ballot Clerk Margaret Fox and Checker Randy Fox.
13. After investigation, the Commission finds that the available evidence does not support a finding that it was more likely than not that Respondent McDermott violated General Statutes § 9-236 (c) by remaining present in the polling place without a permissible purpose. As such, Count One should be dismissed.

COUNT TWO: Unilaterally Preparing Registry List

14. Turning next to the issues between these fellow registrars, the Complainant first alleges, without more, that when she arrived in the registrars' office the morning before the May 29, 2013 referendum, the voter list had been "taken care of" by Respondent McDermott-Arriola.

15. General Statutes § 9-172b requires that the registrars of voters prepare an updated voter list for each referendum and reads, in pertinent part:

(a) In each municipality or political subdivision in which a special election or referendum is to be held, the registrars of voters shall prepare an updated list of the names and addresses of those persons who acquired voting privileges after the completion of the revised registry list and prior to the day of such special election or referendum. In each such municipality or political subdivision, not later than the day before such special election or referendum, such registrars of voters shall cause to be completed and printed such list arranged as provided in section 9-35 and certified by them to be correct, and shall retain a sufficient number of copies to be used by them at such election or referendum for the purpose of checking the names of those who vote, provided the names of any persons who acquired such voting privileges within thirty days before such special election or referendum may be inserted on such printed list in writing.

16. While the Complainant does not support her allegation with any further evidence, Respondent McDermott-Arriola does not generally deny that she prepared the updated voter list for the May 29, 2013 referendum. She states in her response that the Complainant left the registrars' office for a period of time to obtain replacement light bulbs for the polling place (which Complainant confirms) and "[w]hile Ms. Higgins was out of the office, I printed the official active and inactive voter lists."

17. Considering the aforesaid, the Commission does not conclude that any violation has occurred under the facts alleged here. The Complainant does not allege that the lists were not printed or that they were somehow incorrectly printed; she alleges, without more, that the lists were produced by Respondent McDermott-Arriola alone. While General Statutes § 9-172b requires that the registrars of voters prepare an updated voter list for each referendum, it does not require that the registrars both be present while the list is being prepared. It is a joint and several duty of the registrars and the failure to accomplish the duty is a violation of the statute by *both* registrars. However, here the registrars, through Respondent McDermott-Arriola, did their job. As such, Count Two should be dismissed.

COUNTS THREE AND FOUR: Unilaterally Testing Tabulator and Preparing Ballots

18. Turning to Counts Three and Four, the Complainant similarly alleges that Respondent McDermott-Arriola unilaterally printed the ballots and tested the tabulator for the May 29, 2013 referendum.

19. General Statutes § 9-250 prescribes the form of printed ballots and holds registrars responsible for printing such ballots. It reads:

Ballots shall be printed in plain clear type and on material of such size as will fit the tabulator, and shall be furnished by the registrar of voters. The size and style of the type used to print the name of a political party on a ballot shall be identical with the size and style of the type used to print the names of all other political parties appearing on such ballot. The name of each major party candidate for a municipal office, as defined in section 9-372, except for the municipal offices of state senator and state representative, shall appear on the ballot as it appears on the registry list of the candidate's town of voting residence, except as provided in section 9-42a. The name of each major party candidate for a state or district office, as defined in section 9-372, or for the municipal office of state senator or state representative shall appear on the ballot as it appears on the certificate or statement of consent filed under section 9-388, subsection (b) of section 9-391, or section 9-400 or 9-409. The name of each minor party candidate shall appear on the ballot as it appears on the registry list in accordance with the provisions of section 9-452. The name of each nominating petition candidate shall appear on the ballot as it is verified by the town clerk on the application filed under section 9-453b. The size and style of the type used to print the name of a candidate on a ballot shall be identical with the size and style of the type used to print the names of all other candidates appearing on such ballot. Such ballot shall contain the names of the offices and the names of the candidates arranged thereon. The names of the political parties and party designations shall be arranged on the ballots, either in columns or horizontal rows as set forth in section 9-249a, immediately adjacent to the column or row occupied by the candidate or candidates of such political party or organization. The ballot shall be printed in such manner as to indicate how many candidates the elector may vote for each office, provided in the case of a town adopting the provisions of section 9-204a, such ballot shall indicate the maximum number of candidates who may be elected to such office from any party. If two or more candidates are to be elected to the same office for different terms, the term for which each is nominated shall be printed on the official ballot as a part of the title of the office. If, at any election, one candidate is to be elected for a full term and another to fill a vacancy, the official ballot containing the names of the candidates in the foregoing order shall, as a part of the title of the office, designate the term which such candidates are severally nominated to fill. No column, under the name

of any political party or independent organization, shall be printed on any official ballot, which contains more candidates for any office than the number for which an elector may vote for that office.

20. General Statutes § 9-247 reads, in pertinent part:

The registrars of voters shall, before the day of the election, cause test ballots to be inserted in each tabulator to ensure that each tabulator is prepared and read and cause each other voting system approved by the Secretary of the State for use in the election, including, but not limited to, voting devices equipped for individuals with disabilities that comply with the provisions of the Help America Vote Act, P.L. 107-25, as amended from time to time, to be put in order in every way and set and adjust the same so that it shall be ready for use in voting when delivered at the polling place. Such registrars of voters shall cause each voting system to be in order and set and adjusted, to be delivered at the polling place, together with all necessary furniture and appliances that go with the same, at the room where the election is to be held, and to be tested and operable not later than one hour prior to the opening of the polling place. (Emphasis added.)

21. Section 9-242a-5 of the Regulations of Connecticut State Agencies reads:

Beginning as soon as ballots and ballot cards are available and not later than the tenth day before the election or primary, the registrars shall conduct ballot card testing of every programmed memory card with samples of each different ballot card printed for the election or primary. The purpose of the test is to ensure that (1) ballots are printed properly, (2) timing, diagnostic and card identification marks are correctly located on the ballot, (3) memory cards are programmed with accurate information, and (4) the voting tabulators tally ballots correctly. The Secretary of the State shall prescribe the procedure to (A) test unvoted ballot cards, (B) test fully voted ballot cards, and (C) count a series of test ballots. All those present, including the registrars or their designees, the technician certified under section 9-242-13 of the Regulations of Connecticut State Agencies, if any, the town chairmen, candidates and watchers, shall certify (i) as to the numbers of the voting tabulators, (ii) that the voting tabulators have been test-voted with samples of the ballots and found to be working properly, (iii) that the candidate, question and public counters are set back to zero, (iv) as to the numbers registered on the protective counters of the tabulator, if provided, and

(v) as to the numbers on the seals sealing the memory cards into the voting tabulator. This certificate and the test ballots shall be filed with the municipal clerk and kept for sixty days after the election. Each voting tabulator shall be sealed and placed in its carrying case together with the ender card and sealed in its carrying case. The voting tabulator in its carrying case and any spare tabulators shall be delivered by the registrars to the central secure location designated by the registrars meeting such specifications as the secretary may prescribe, until delivery of such voting tabulators to the election officials as described in 9-242a-8 of the Regulations of Connecticut State Agencies. The registrars shall immediately secure the keys to the voting tabulator. Not later than eight o'clock p.m. of the day before the election, the moderators shall appear in the office of the registrars of voters to receive checklists, the voting tabulator seal number as reported on the report of pre-election testing, and supplies necessary to conduct the election. In addition, the registrars of voters shall deliver ballots to the election officials as described in 9-242a-8 of the Regulations of Connecticut State Agencies

22. Specifically, the Complainant alleges that the tabulator was scheduled to be tested at 11 a.m. on May 28, the day before the referendum. She states that at some point in the morning, while both registrars were in the building in which the registrars' office is located, she walked into registrars' office and

saw that a [tabulator] was open and ready to be tested. I had no way of knowing if [the Respondent] had opened the [tabulator] that had or had not been used last week [at the May 23, 2013 referendum]. I went to the Selectman's Office to see if he could have someone replace the light bulbs in the Community Room I talked to his assistant for a few minutes and when I returned to the office expecting to test the [tabulator], [the Respondent] had completed the test alone and was returning it to the case and into the cabinet. I then asked about printing the ballots and was informed that her deputy had come in early in the morning and they were all printed.

23. The Respondent's reply asserts a different version of events:

On May 28, prior to the poll worker training session, which we conducted at 10 a.m., I generated the Moderator's Return and prepared the referendum materials while Ms. Higgins and the Moderator,

Marjorie Newcombe, prepared the privacy booths and posted the necessary signs in the polling place.

The tabulator test was scheduled for 11 a.m., as Ms. Higgins confirms in her statement. The date and time for the tabulator test is posted at Town Hall and on the town website (Exhibit 9) and noticed to interested parties, in this case, the Chairman of the Regional District #11 Board of Education (Exhibit 10). At 11 a.m., Ms. Higgins entered the office and observed, per her statement, that the tabulators were ready to be tested. The tabulator test took less than fifteen minutes to complete as there was only one question on the ballot so only five test ballots were required, and because we could only process one memory card as the other memory card was sealed within the tabulator that was used at the prior referendum only five days earlier. During this time, Ms. Higgins was in the office texting. After the test was complete and the tabulator was prepared for election, but before the memory card and the tabulator were sealed, Ms. Higgins, per her statement, left the room to check on the replacement of light bulbs in the polling place. While Ms. Higgins was out of the office, I printed the official active and inactive voter lists. Ms. Higgins returned to the office at approximately 11:50. When she re-entered the office, she announced her intent to produce the ballots needed for the referendum. The template for the ballot had already been approved by the Registrars. When I informed Ms. Higgins that the ballots had already been produced by my Deputy, who volunteered to the task earlier in the day so as not to interfere with the normal business of the Town Clerk's Office where the copy machine is located and used by the public and all employees at Town Hall, she became very angry and immediately left the office and Town Hall, per her statement, eight minutes early, or at 11:52. Because I did not want to leave the tested memory card and tabulator unsealed, I affixed and recorded the seals.

24. Turning first to the question of the testing of the tabulator, the Commission holds as an initial matter that per General Statutes § 9-247 and Section 9-242a-5 of the Regulations of Connecticut State Agencies tabulator testing needs to involve the presence of both registrars or their designees. This does not mean that both of the registrars (or their designees) need to actually *conduct* the testing, but generally that the testing needs to be coordinated between the registrars and that both should have a presence, either personally or by a designee, while the testing is taking place.

25. Here, both parties seem to agree that the testing was designated for 11 a.m. on May 28, the day before the referendum. Both parties also agree that Respondent McDermott-Arriola conducted the testing and the Complainant was not in the actual room when this occurred.
26. However, what remains unclear from the allegations of the parties and was not made any clearer during the investigation of this matter, is whether any facts support the action by Respondent McDermott-Arriola as truly unilateral. Both parties were aware of when the testing was scheduled to take place and both parties were in the building when it actually occurred. The Complainant saw that the machine had been prepared to be tested and decided, by her own admission, to leave the room without speaking to Respondent McDermott-Arriola. On the other hand, Respondent McDermott-Arriola knew that the Complainant was in the building and knew that the Complainant had seen that the machine was ready for testing, but instead of asking her to stay during the testing, conducted it while she was out of the room.
27. If the Complainant is to be believed, the testing was intentionally done without her being present. If Respondent McDermott-Arriola is to be believed, the Complainant was present, insofar as she was aware that the testing was to take place and failed to participate. One fact that is clear here is that a duty that is required to be performed jointly, *with both of the registrars or their designees in the room where the testing is taking place*, was done improperly in this instance. And under these facts, the Commission concludes that the fault lies here with *both* the Respondent *and* the Complainant. These registrars had a duty to perform this shared responsibility professionally and jointly, and they utterly failed in this case on both accounts. . While the Commission will take no further action in this instance given that we are facing this question for the first time, future cases presenting such or similar facts will be addressed with severity.
28. Considering the question in Count Four of whether the ballots were properly prepared, the Commission does not conclude that any violation has occurred under the facts alleged here. As in Count Two, the Complainant does not allege that the ballots were not printed or that they were somehow incorrectly printed; she alleges, without more, that the ballots were produced by Respondent McDermott-Arriola alone. While General Statutes § 9-250 requires that the registrars of voters print the ballots, it does not require that the registrars both conduct this task. It is a joint and several duty of the registrars and the failure to accomplish the duty is a violation of the statute by both registrars. However, here the registrars, through Respondent McDermott-Arriola, did their job. As such, Count Four should be dismissed.

COUNT FIVE: Unilaterally Selecting Polling Place Workers

29. Finally, turning to Count Five, the Complainant similarly alleges that Respondent McDermott-Arriola unilaterally selected polling place workers for both the May 23, 2013 referendum and the May 29, 2013 referendum.

30. General Statutes § 9-258 reads:

(a) For municipalities with more than one voting district, the election officials of each polling place shall be electors of the state and shall consist of one moderator, at least one, but not more than two official checkers, two assistant registrars of voters of opposite political parties, each of whom shall be residents of the town, not more than two challengers if the registrars of voters have appointed challengers pursuant to section 9-232, and at least one and not more than two ballot clerks and at least one but not more than two voting tabulator tenders for each voting tabulator in use at the polling place. A known candidate for any office shall not serve as an election official on election day or serve at the polls in any capacity, except that a municipal clerk or a registrar of voters, who is a candidate for the same office, may perform his or her official duties. If, in the opinion of the registrar of voters, the public convenience of the electors in any voting district so requires, provision shall be made for an additional line or lines of electors at the polling place and, if more than one line of electors is established, at least one but not more than two additional official checkers and at least one but not more than two ballot clerks for each line of electors shall be appointed and, if more than one tabulator is used in a polling place, at least one and not more than two additional voting tabulator tenders shall be appointed for each additional machine so used. Head moderators, central counting moderators and absentee ballot counters appointed pursuant to law shall also be deemed election officials.

(b) For municipalities with one voting district, the election officials of such polling place shall be electors of the state and shall consist of one moderator, at least one, but not more than two official checkers, not more than two challengers if the registrars of voters have appointed challengers pursuant to section 9-232, at least one and not more than two voting tabulator tenders for each voting tabulator in use at the polling place and at least one but not more than two ballot clerks. Additionally, such election officials may consist of two registrars of voters of opposite political parties, or two assistant registrars of voters

of opposite political parties, as the case may be, subject to the requirements of sections 9-259 and 9-439, provided if the registrars of voters are present in the polling place, they shall appoint at least one designee to be present in their office. A known candidate for any office shall not serve as an election official on election day or serve at the polls in any capacity, except that a municipal clerk or a registrar of voters, who is a candidate for the same office, may perform his or her official duties. If, in the opinion of the registrar of voters, the public convenience of the electors in any voting district so requires, provision shall be made for an additional line or lines of electors at the polling place and, if more than one line of electors is established, at least one, but not more than two, additional official checkers for each line of electors shall be appointed and, if more than one tabulator is used in a polling place, at least one and not more than two additional voting tabulator tenders shall be appointed for each additional tabulator so used. Head moderators, central counting moderators and absentee ballot counters appointed pursuant to law shall be deemed to be election officials.

(c) No election official shall perform services for any party or candidate on election day nor appear at any political party headquarters prior to eight o'clock p.m. on election day.

31. Regulations of Connecticut State Agencies § 9-242a-6 reads:

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.

32. Considering Count Five, this allegation falls outside of the Commission’s jurisdiction. As noted above, these referenda were held pursuant to General Statutes § 7-7 and local ordinances and were not held in conjunction with any election or primary. The prescriptions in Title 9 for conducting such referenda are more limited in scope. As such, the above provisions concerning the training and selection of polling place workers did not apply here. Count Five should be dismissed.
33. In review, the Commission notes that the lion’s share of the issues in this matter stem from what appears in the allegations and responses in this case to be a fractured relationship between the parties. A basic line of communication between the parties as to the division of labor for each referendum could have mitigated the issues before us here.
34. Such a breakdown in the working relationship between registrars serves, at best, to weaken the public trust in the registrars’ office’s ability to accomplish the duties imposed upon them—in most cases jointly and severally. At worst, this kind of breakdown could lead to systemic failures that threaten the very integrity of the voting processes that these registrars are sworn to uphold and protect.

35. With this in mind, the Commission also notes that the investigation revealed that First Selectman Allan Cahill and Selectman Bob Grindle made inquiries as to the issues between the parties in this matter and the parties worked informally with Mr. Cahill and Mr. Grindle in order to attempt to work out their differences. While in this instance the matter still escalated to the point where the Complainant felt it necessary to file this Complaint, the Commission commends Mr. Cahill's and Mr. Grindle's efforts and encourages the Complainant and Respondent McDermott-Arriola to seek this type of mediated, non-adversarial, solution to any future differences that may arise.

ORDER

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

That Counts One, Two, Four and Five are dismissed.
That no further action be taken as to Count Three

Adopted this 14th day of May, 2014 at Hartford, Connecticut.


Anthony J. Castagno, Chairperson
By Order of the Commission