

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by William Rudis, Hebron

File No. 2014-173

FINDINGS AND CONCLUSIONS

The Complainant alleges that during the November 4, 2014 general election held in the Town of Hebron, Respondent Arlene Snyder, the moderator at the Hebron Elementary School polling place, failed to properly accommodate the unofficial checkers assigned to that polling place insofar as the unofficial checkers were not seated close enough to the official checkers to be able to properly record the identity of voters being checked off the official list.¹

1. Pursuant to their discretion under General Statutes § 9-235, the Registrars of Voters for the Town of Hebron appointed unofficial checkers from the two major parties to serve in that role during the hours of voting.
2. Respondent Arlene Snyder was the moderator at the Hebron Elementary School polling place during all the hours of voting at the November 4, 2014 general election.
3. The Complainant, the chairman of the Hebron Democratic Party, here alleges that the Respondent Snyder placed the unofficial checkers at a table approximately 6' behind the table at which the official checkers were placed.
4. The Complainant further alleges that because of the distance between the official checkers table and unofficial checkers table, the unofficial checkers could not properly record all of the names of voters voting on that day, as not all of the voters were speaking their names and addresses in a "loud and clear" tone pursuant to the polling place check-in procedures enumerated in General Statutes § 9-261.

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.

5. The Complainant alleges that since the unofficial checkers' table was so far away from the official checkers' table it was the responsibility of the official checkers and the Respondent to require that the voters speak in a "loud and clear" tone such that the unofficial checkers could hear them and properly record the names. Failure to do so, he asserts, was a violation of General Statutes § 9-261 and, by implication, he asserts that the parties had a "right" to unofficial checkers under § 9-235 and that that right was being abridged.

Law

6. The only statute addressing unofficial checkers (once called "party checkers") is General Statutes § 9-235, which reads, in pertinent part:

(a) *At least forty-eight hours prior to each election to be held in a municipality, each registrar of voters in such municipality **may appoint** for each line of electors in each voting district therein, to serve as unofficial checkers, not more than four electors enrolled in the party with which the registrar is enrolled, provided a registrar may establish two or more shifts for unofficial checkers, in which case such registrar may appoint not more than four such unofficial checkers for each line of electors in each district for each shift. The persons so appointed shall be designees of the town chairman of the party with which such registrar is enrolled, provided such town chairman shall submit the names of such designees in writing to such registrar at least forty-eight hours before the election. A registrar of voters shall, at the request of the town chairman of the party with which such registrar is enrolled, change such appointments of designees of such town chairman, at any time before the closing of the polls on the day of an election.*

(b) Except for rows of candidates entitled to unofficial checkers under subsection (a) of this section, each group of three or more electors whose names appear in one single row on the ballot in a voting district, may designate not more than two electors of the state in which the voting district is located, to serve as unofficial checkers on behalf of the candidates whose names appear in such row. Such candidates shall submit a list of the names of such designees to the registrars of voters at least forty-eight hours prior to the election. The registrars of voters shall verify that each such designee is an elector of the state and shall appoint not more than two such designees to serve each such row of candidates. The registrars of voters shall, at the request of such a group of three or

more electors, change such designations at any time before the closing of the polls on the day of an election.

(c) If such designation is not so made with respect to unofficial checkers for any voting district at an election, such registrar may appoint for such district not more than four electors of his own choice to serve as unofficial checkers, provided a registrar may establish two or more shifts for unofficial checkers, in which case such registrar may appoint not more than four such unofficial checkers for each line of electors in each district for each shift, such appointment to be made at least twenty-four hours before the election, provided any candidates entitled to unofficial checkers under subsection (b) of this section are deemed to have waived their rights under this section if names of designees are not filed in a timely manner.

(d) No candidate for an office in an election may be an unofficial checker at such election. In municipalities divided into two voting districts in which registrars are elected for each district, such appointments may be made by the registrars in each district. *Such unofficial checkers may remain within the polling place for the purpose of checking their own copy of the registry list to indicate the names of electors who have voted, and may enter and leave the restricted area surrounding the polling place during the hours of election or referendum for the purpose of taking such information outside said area or may communicate such information from the polling place by means of telephones provided by the party for which such checkers were appointed. If any such unofficial checker interferes with the orderly process of voting or attempts to influence any elector, he shall be evicted by the moderator. An unofficial checker appointed pursuant to this section may receive compensation from the municipality in which the election is held.*

...

(f) No election or referendum official shall perform the functions of an unofficial checker pursuant to this section. (Emphasis added.)

7. General Statutes § 9-261 outlines the process of voting, and 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 checker or 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 checker or 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 checker or 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 form shall be used for each elector. If the elector presents a preprinted form of identification under subdivision (1) of this subsection, the official checker or checkers shall check the name of such elector on the official checklist, manually on paper or electronically. 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 checker or checkers to check the name of such elector on the official checklist, manually on paper or electronically, or notify the elector that the form is incomplete or inaccurate.

8. Moderator’s Handbook (Revision 2.1 — July, 2013) provides some insight into the Secretary of the State’s opinion on the role and rights of the unofficial checkers at a polling place:

The Registrar(s) of Voters should include the unofficial checkers' names, addresses and titles on a list provided to the Moderator. Unofficial checkers shall identify themselves, and check in with the Moderator, upon arrival at the polling place. The unofficial checkers will have their own copy of the official checklist to be used in any manner, including the use of sequence numbers. The unofficial checkers will be marking the names of electors who vote, and reporting this information to their respective headquarters. They may do so by leaving

the polling place at any time throughout the day to use telephones provided by their party, and then returning. The unofficial checkers should be seated near the Official Checkers' tables, or at the end of the tables, so that they can hear the electors as they announce their name and address. Unofficial checkers are not allowed to interfere with the voting process or make additional inquiries of the elector because Connecticut law only requires that electors announce their names once. (SOTS Opinion, Nov. 20, 1992)

Analysis

9. As an initial matter, the Commission takes notice that General Statutes § 9-235 does not establish a right to unofficial checkers, as alleged by the Complainant. It is the discretion of the registrars of voters in a general election or referendum (and under General Statutes § 9-436a in a primary) to appoint unofficial checkers in a polling place.
10. With the above in mind, the parties here do not dispute that the registrars had exercised their option and appointed unofficial checkers designated by the two major parties.
11. However, upon examination of the available law and SOTS opinion, the Commission concludes that the rights of unofficial checkers are fairly limited and that the law is lacking in support for the situation presented here.
12. Designated unofficial checkers are allowed to be in the polling place. They are allowed to come and go from the polling place. They are allowed to record the names of voters on their own copies of the registry list (and do what they please with such registry list).
13. But, the law and available opinion establish that the concerns of the orderly process of voting are paramount. If an unofficial checker is not able to sufficiently record the name of the voter because such voter did not speak their name and address "in a tone sufficiently loud and clear as to enable all the election officials present to hear the same," the 1992 SOTS Opinion establishes that the law does not require that a voter need repeat themselves so long as the official checker can find their name on the official registry list:

Conn. Gen. Stat. Sec. 9-235 does authorize the appointment of unofficial checkers and permits them to be within the polling place during voting hours. The Connecticut statutes do not, however, specifically provide where those checkers should be located. Sec. 9-261 does require that a voter announce his name and address to the official checkers prior to being given

access to the voting machines. There is no requirement that the elector announce his name and address a second time to unofficial checkers. Consequently, while practicality would dictate that the unofficial checkers be stationed close enough to the official checkers to hear what voters are saying, the statutes do not specifically require this, nor do the statutes specifically require that the unofficial checkers be identified in any way. On the other hand, voters are not required to announce their names to, nor in any way otherwise cooperate with, unofficial checkers . . . (Emphasis added.)

(SOTS Opinion, Nov. 20, 1992)

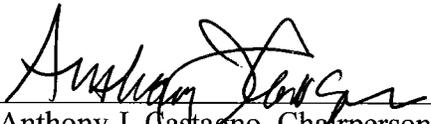
14. The Commission sees no need to rebut the general presumption in General Statutes § 9-3 that “the secretary’s regulations, declaratory rulings, instructions and opinions, if in written form, shall be presumed as correctly interpreting and effectuating the administration of elections and primaries...”
15. Accordingly, the Commission concludes that under the facts of this case and the established law, neither the Respondent moderator nor the official checkers failed to perform their duties in relation to the unofficial checkers. Accordingly, this matter should be dismissed.
16. This isn’t to say that the Commission condones the relegation of unofficial checkers to second-class citizens—they are still considered “election officials” under the law and if the registrars choose to exercise their discretion to appoint unofficial checkers, accommodations should be made to allow them to perform their duties.
17. With the above in mind, Commission staff undertook to encourage the parties to resolve their differences amicably and establish a check-in procedure that would accommodate the needs of all concerned. It is the understanding from the Respondent and through the town manager for the Town of Hebron that the parties did meet to establish protocols for training moderators and official checkers to better integrate the unofficial checkers, including but not limited to arranging the checkers’ tables in a better configuration and remembering to remind each voter to speak up. No evidence was found during the investigation that the issues alleged herein repeated themselves for the 2015 municipal election. The Commission encourages the parties to continue to work in such a manner for future elections.

ORDER

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

That the matter is dismissed.

Adopted this 13th day of April, 2016 at Hartford, Connecticut.


Anthony J. Castagno, Chairperson
By Order of the Commission