

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

In the Matter of a Complaint by Raquel Calderon, Hartford

File No. 2018-064

**FINDINGS AND CONCLUSIONS**

The Complainant alleged that prior to the August 14, 2018 Party Primary in the City of Hartford, the Respondent Gisele Feliciano, the Hartford Democratic Registrar of Voters, improperly informed her that she could not distribute absentee ballot applications in properties that were designated for supervised absentee balloting.<sup>1</sup>

**Introduction**

1. The Complainant here alleges that sometime ahead of the 2018 Democratic Party Primary in the City of Hartford, Respondent Democratic Registrar of Voters Gisele Feliciano told her that she “can’t help constituents to fill out their [a]bsentee [b]allot [a]pplication because they are mandated [b]allots for certain locations.”
2. The Complaint submitted a list of seven locations that she asserts that she was told by the Respondent Registrar she is not permitted to visit to distribute absentee ballot applications.

**Law**

3. General Statutes §§ 9-159q through 9-159r enumerate the circumstances and procedures under which the execution of absentee ballots may, and in some instances must, occur under the supervision of the registrars of voters or their designees.
4. General Statutes § 9-159q provides:

(a) As used in this section:

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<sup>1</sup> 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.

(1) "Institution" means a veterans' health care facility, residential care home, health care facility for the handicapped, nursing home, rest home, mental health facility, alcohol or drug treatment facility, an infirmary operated by an educational institution for the care of its students, faculty and employees or an assisted living facility; and

(2) "Designee" means an elector of the same town and political party as the appointing registrar of voters which elector is not an employee of the institution at which supervised voting is conducted.

(b) Notwithstanding any provision of the general statutes to the contrary, if less than twenty of the patients in any institution in the state are electors, absentee ballots voted by such electors shall, upon request of either registrar of voters in the town of such electors' voting residence or the administrator of such institution, be voted under the supervision of such registrars of voters or their designees in accordance with the provisions of this section. The registrars of voters of a town other than the town in which an institution is located may refuse a request by the administrator of such institution when, in their written opinion, the registrars agree that such request is unnecessary, in which case this section shall not apply. Such registrars shall inform the administrator and the town clerk of the electors' town of voting residence of their refusal.

(c) Except as provided in subsection (e) of this section, such request shall be made in writing and filed with the town clerk and registrars of voters of the town of such electors' voting residence, not more than forty-five days prior to an election or thirty-four days prior to a primary and not later than the seventh day prior to an election or primary. The request shall specify the name and location of the institution and the date and time when the registrars of voters or their designees shall supervise the casting of absentee ballots at the institution. The request shall also specify one or more alternate dates and times when supervised voting may occur. No request shall specify a date or an alternate date for supervised voting which is later than the last business day before the election or primary.

(d) The town clerk shall not mail or otherwise deliver an absentee ballot to an applicant who is a patient in any institution if a request for supervision of absentee balloting at that institution has been filed

with the clerk during the period set forth in subsection (c) of this section. The clerk shall instead deliver such ballot or ballots to the registrars of voters or their designees who will supervise the voting of such ballots in accordance with this section.

(e) Except in the case of a written refusal as provided in subsection (b) of this section, upon receipt of a request for supervision of absentee balloting during the period set forth in subsection (c) of this section, the registrar or registrars of voters who received the request shall inform the registrar or administrator who made the request and the town clerk as to the date and time when such supervision shall occur, which shall be the date and time contained in the request or the alternate date and time contained in the request. If the registrar or registrars fail to select either date, the supervision shall take place on the date and time contained in the request. If a request for supervision of absentee balloting at an institution is filed during the period set forth in subsection (c) of this section and the town clerk receives an application for an absentee ballot from a patient in the institution after the date when supervised balloting occurred, either registrar of voters may request, in writing, to the appropriate town clerk and registrars of voters that the supervision of the voting of absentee ballots at such institution in accordance with this section be repeated, and in such case the registrars or their designees shall supervise absentee balloting at such institution on the date and at the time specified in the subsequent request, which shall be not later than the last business day before the election or primary.

(f) On the date when the supervision of absentee balloting at any institution is to occur, the town clerk shall deliver to the registrars or their designees the absentee ballots and envelopes for all applicants who are electors of such clerk's town and patients at such institution. The ballot and envelopes shall be prepared for delivery to the applicant as provided in sections 9-137 to 9-140a, inclusive. The registrars or their designees shall furnish the town clerk a written receipt for such ballots.

(g) The registrars or their designees, as the case may be, shall jointly deliver the ballots to the respective applicants at the institution and shall jointly supervise the voting of such ballots. The ballots shall be returned to the registrars or their designees by the electors in the

envelopes provided and in accordance with the provisions of sections 9-137, 9-139 and 9-140a. If any elector asks for assistance in voting his ballot, two registrars or their designees of different political parties or, for a primary, their designees of different candidates, shall render such assistance as they deem necessary and appropriate to enable such elector to vote his ballot. The registrars or their designees may reject a ballot when (1) the elector declines to vote a ballot, or (2) the registrars or their designees are unable to determine how the elector who has requested their assistance desires to vote the ballot. When the registrars or their designees reject a ballot, they shall mark the serially-numbered outer envelope "rejected" and note the reasons for rejection. Nothing in this section shall limit the right of an elector to vote his ballot in secret.

(h) After all ballots have been voted or marked "rejected" in accordance with subsection (g) of this section, the registrars or their designees shall jointly deliver or mail them in the envelopes, which shall be sealed, to the appropriate town clerk, who shall retain them until delivered in accordance with section 9-140c.

(i) When an institution is located in a town having a primary, the registrar in that town of the party holding the primary shall appoint for each such institution, one designee of the party-endorsed candidates and one designee of the contestants from the lists, if any, submitted by the party-endorsed candidates and contestants. Such registrar shall notify all party-endorsed candidates and all contestants of their right to submit a list of potential designees under this section. Each party-endorsed candidate and each contestant may submit to such registrar in writing a list of names of potential designees, provided any such list shall be submitted not later than ten days before the primary. If no such lists are submitted within said period, such registrar shall appoint one designee of the party-endorsed candidates and one designee of the contestants. Each designee appointed pursuant to this section shall be sworn to the faithful performance of his duties, and the registrar shall file a certificate of each designation with his town clerk.

(j) Any registrar of voters who has filed a request that the absentee balloting at an institution be supervised and any registrar required to conduct a supervision of voting under this section, who neglects to

perform any of the duties required of him by this section so as to cause any elector to lose his vote shall be guilty of a class A misdemeanor. Any registrar from the same town as a registrar who has filed such a request may waive his right to participate in the supervision of absentee balloting.

(k) Notwithstanding any provision of this section to the contrary, if the spouse or a child of a registrar of voters or a dependent relative residing in the registrar's household is a candidate in the election or primary for which supervised absentee voting is to occur, such registrar shall not supervise such absentee voting but may designate the deputy registrar of voters or an assistant registrar of voters, appointed by the registrar pursuant to section 9-192, to supervise the absentee voting in his place.

(l) Notwithstanding any provision of the general statutes, if a town clerk receives twenty or more absentee ballot applications from the same street address in a town, including, but not limited to, an apartment building or complex, absentee ballots voted by the electors submitting such applications may, at the discretion of the registrars of voters of such town, be voted under the supervision of such registrars of voters or their designees in accordance with the same procedures set forth in this section for supervised absentee voting at institutions.

5. General Statutes § 9-159r provides:

(a) Notwithstanding any provision of the general statutes to the contrary, if twenty or more of the patients in any institution in the state are electors, absentee ballots voted by such electors shall be voted under the supervision of the registrars of voters or their designees of the town in which the institution is located, in accordance with the provisions of this section. As used in this section, the term "institution" shall be construed as defined in section 9-159q.

(b) Application for an absentee ballot for any such patient shall be made to the clerk of the town in which such patient is eligible to vote. **The application procedure set forth in section 9-140 shall apply,** except that the clerk shall deliver the absentee voting set for

any such application to the clerk of the town in which the institution is located, who shall deliver all such voting sets he receives to the registrars of such town, on the date when the supervision of absentee balloting is to occur. The ballots and envelopes shall be prepared for delivery to the applicant as provided in sections 9-137 to 9-140a, inclusive. The registrars or their designees shall furnish the town clerk a written receipt for such ballots. The registrars of the town in which an institution is located and the administrator of the institution shall mutually agree on a date and time for such supervision of absentee balloting, which shall be not later than the last business day before the election or primary.

(c) The supervision of absentee balloting under this section shall be carried out in accordance with the provisions of subsections (g), (h), (i) and (k) of section 9-159q. (Emphasis added.)

6. General Statutes § 9-159s reads:

(a) The administrator of an institution, as defined in subsection (a) of section 9-159q, a residential facility for persons with intellectual disability licensed pursuant to section 17a-227, or a community residence, as defined in section 19a-507a, shall use his or her best efforts to provide written notice pursuant to subsection (b) of this section to any conservator or guardian appointed to manage the affairs of a resident of such institution, facility or residence pursuant to sections 45a-644 to 45a-663, inclusive, or sections 45a-669 to 45a-683, inclusive, at least seven days prior to the date any voter registration or voting opportunity is presented to the resident with respect to a primary, referendum or election. As used in this section, "voter registration" or "voting opportunity" includes, but is not limited to, the solicitation or completion of: (1) An application for admission as an elector; or (2) an absentee ballot, regardless of whether supervised absentee ballot voting will take place at such institution. The administrator of such institution, facility or residence shall also use his or her best efforts to provide written notice to any such conservator or guardian at least seven days prior to the date when the resident may be brought to a polling place to vote in person. The notification provisions of this section shall not apply when a member of the resident's immediate

family provides the resident with an absentee ballot application or brings the resident to a polling place to vote.

(b) Any such notice shall indicate that the resident is entitled to vote or register to vote unless the resident is determined incompetent to do so by a probate court, or unless the registrars of voters or their designees jointly conclude at a supervised voting session that the resident declines to vote the ballot or they are unable to determine how the resident desires to vote the ballot, as provided in subsection (g) of section 9-159q. The notice shall also specify that a resident who requires assistance to vote in accordance with section 9-264 by reason of blindness, disability or inability to read or write may receive assistance from a person of the resident's choosing.

(c) The administrator of any such institution, facility or residence may also provide such notice to a person with a power of attorney for a resident of the institution, facility or residence.

7. General Statutes § 9-140 enumerates, *inter alia*, the rules regarding the distribution of absentee ballot applications and reads, in pertinent part:

(a) Application for an absentee ballot shall be made to the clerk of the municipality in which the applicant is eligible to vote or has applied for such eligibility. Any person who assists another person in the completion of an application shall, in the space provided, sign the application and print or type his name, residence address and telephone number. Such signature shall be made under the penalties of false statement in absentee balloting. The municipal clerk shall not invalidate the application solely because it does not contain the name of a person who assisted the applicant in the completion of the application. The municipal clerk shall not distribute with an absentee ballot application any material which promotes the success or defeat of any candidate or referendum question. The municipal clerk shall maintain a log of all absentee ballot applications provided under this subsection, including the name and address of each person to whom applications are provided and the number of applications provided to each such person. Each absentee ballot application provided by the municipal clerk shall be consecutively numbered and be stamped or marked with the name of the

municipality issuing the application. The application shall be signed by the applicant under the penalties of false statement in absentee balloting on (1) the form prescribed by the Secretary of the State pursuant to section 9-139a, (2) a form provided by any federal department or agency if applicable pursuant to section 9-153a, or (3) any of the special forms of application prescribed pursuant to section 9-150c, 9-153a, 9-153b, 9-153d, 9-153e, 9-153f or 9-158d, if applicable. Any such absentee ballot applicant who is unable to write may cause the application to be completed by an authorized agent who shall, in the spaces provided for the date and signature, write the date and name of the absentee ballot applicant followed by the word "by" and his own signature. If the ballot is to be mailed to the applicant, the applicant shall list the bona fide personal mailing address of the applicant in the appropriate space on the application.

(b) A municipal clerk may transmit an application to a person under this subsection by facsimile machine or other electronic means, if so requested by the applicant. If a municipal clerk has a facsimile machine or other electronic means, an applicant may return a completed application to the clerk by such a machine or device, provided the applicant shall also mail the original of the completed application to the clerk, either separately or with the absentee ballot that is issued to the applicant. If the clerk does not receive such original application by the close of the polls on the day of the election, primary or referendum, the absentee ballot shall not be counted.

(c) The municipal clerk shall check the name of each absentee ballot applicant against the last-completed registry list and any updated registry lists on file in the municipal clerk's office. If the name of such applicant does not appear on any of such lists, the clerk shall send such applicant a notice, in a form prescribed by the Secretary of the State, to the effect that (1) the applicant's name did not appear on the list of electors of the municipality at the time the application was processed, and (2) unless the applicant is admitted or restored as an elector of the municipality by the applicable cutoff dates an absentee ballot will not be mailed to him. Such notice shall not be so mailed if, prior to the mailing of the notice, the registrars provide the clerk with reliable information showing the absentee ballot applicant to be an elector of the municipality.



...

(j) No person shall pay or give any compensation to another and no person shall accept any compensation solely for (1) distributing absentee ballot applications obtained from a municipal clerk or the Secretary of the State or (2) assisting any person in the execution of an absentee ballot.

(k) (1) A person shall register with the town clerk before distributing five or more absentee ballot applications for an election, primary or referendum, not including applications distributed to such person's immediate family. Such requirement shall not apply to a person who is the designee of an applicant.

(2) Any person who distributes absentee ballot applications shall maintain a list of the names and addresses of prospective absentee ballot applicants who receive such applications, and shall file such list with the town clerk prior to the date of the primary, election or referendum for which the applications were so distributed. Any person who distributes absentee ballot applications and receives an executed application shall forthwith file the application with the town clerk.

(l) No candidate, party or political committee, or agent of such candidate or committee shall mail unsolicited applications for absentee ballots to any person, unless such mailing includes: (1) A written explanation of the eligibility requirements for voting by absentee ballot as prescribed in subsection (a) of section 9-135, and (2) a written warning that voting or attempting to vote by absentee ballot without meeting one or more of such eligibility requirements subjects the elector or applicant to potential civil and criminal penalties. As used in this subsection, "agent" means any person authorized to act on behalf of another person.

(m) The Secretary of the State shall conspicuously post on the Secretary of the State's web site, adjacent to the absentee ballot application form available for downloading, a notice that the application may be downloaded by a person only for (1) the person's own use, (2) the use of a member of the person's immediate family, or (3) the use of a designee of the applicant. The notice shall also

contain an advisory statement concerning the requirements of subsection (k) of this section.

(n) The State Elections Enforcement Commission, in consultation with the Secretary of the State, shall prepare a summary of the requirements and prohibitions of the absentee voting laws, which shall be posted on said agencies' web sites. Candidates and political party chairpersons shall provide such summary to campaign and party employees and volunteers.

(o) As used in this section, (1) "immediate family" has the same meaning as provided in subsection (a) of section 9-140b, and (2) "designee" has the same meaning as provided in subsection (b) of section 9-140b.

#### **Analysis**

8. The Commission notes that as a general rule, the distribution of absentee ballot applications and the provision of assistance to potential voters is permissible so long as the distributor adheres to the requirements enumerated in General Statutes § 9-140.
9. The Commission also notes that in no part of General Statutes § 9-140 does any provision therein prohibit the distribution of absentee ballot applications and the provision of assistance to potential voters in locations designated for supervised absentee balloting.
10. The Commission also notes that in no part of §§ 9-159q through 9-159s, does any provision therein prohibit the distribution of absentee ballot applications and the provision of assistance to potential voters in locations designated for supervised absentee balloting.
11. Indeed, General Statutes § 9-159r specifically states that even in institutions in which supervised absentee balloting is mandated, "[t]he application procedure set forth in section 9-140 shall apply," which includes the sections concerning the distribution of absentee ballot applications and the provision of assistance to potential voters.
12. Considering the aforesaid, the Commission concludes that the law does not prohibit the activity that the Complainant proposed to undertake. Assuming the Complainant's allegation to be correct, the Respondent Registrar incorrectly informed the Complainant on the law.

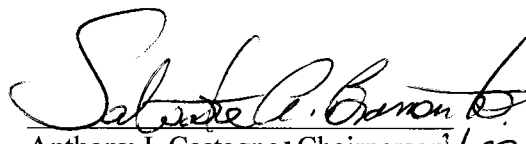
13. However, the Commission also notes that while a trained and certified registrar such as the Respondent here should certainly have known better, her mistake of law, if true, was not a violation under any statute in Title 9.
14. Moreover, the Commission notes that there is no allegation here that she failed to meet her responsibilities as a registrar as concerns the administration of supervised absentee balloting during the August 14, 2018 Party Primary. Accordingly, this matter should be dismissed.

ORDER

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

That the matter is dismissed.

Adopted this 17<sup>th</sup> day of October, 2018 at Hartford, Connecticut.



~~Anthony J. Castagno~~, Chairperson *Vice*

By Order of the Commission

