

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Evanthia Sikora, Unionville	File No. 2018-070
In the Matter of a Complaint by Lawanda Frederick, New Haven	File No. 2018-075
In the Matter of a Referral by Greenwich Republican Registrar of Voters	File No. 2018-085

FINDINGS AND CONCLUSIONS

The instant matters involve facts and allegations concerning the use and implementation of the voter registration system reforms implemented via a Memorandum of Understanding between the United States Department of Justice, the Connecticut Secretary of the State, and the Connecticut Department of Motor Vehicles in order to bring Connecticut into compliance with the National Voter Registration Act.

Background

1. By way of background regarding all three of the above-captioned matters, on or about April 15, 2016, the Civil Rights Division of the United States Department of Justice informed the State of Connecticut that its “Motor Voter” procedures did not fully comply with Section 5 of the National Voter Registration Act of 1993 (“NVRA”), 52 U.S.C. § 20504 and that litigation was forthcoming should the State be unable to demonstrate a plan to bring its system into compliance.
2. On or about August 5, 2016, the United States Department of Justice (“DOJ”), the Connecticut Secretary of the State (“SOTS”), and the Connecticut Department of Motor Vehicles (“DMV”) entered into a detailed Memorandum of Understanding to reform its implementation of the National Voter Registration Act rules regarding, generally: integrating voter registration applications with driver’s license applications at the motor vehicle department without duplicating information; aligning changes of address at the DMV with changes of address for voter registration purposes; and efficiently delivering applications to the registrars in every town.
3. The Memorandum of Understanding (“MOU”) is attached hereto.

4. Integral to the MOU, was the creation of an electronic system that linked the DMV information to the Connecticut Voter Registration System (“CVRS”) and replaced the old system of mailing paper applications and changes of addresses to the registrars in the 169 towns.
5. Through this electronic system, the DMV forwards new registrations and changes of registration information processed at the DMV on to the appropriate town registrars and the town registrars then complete the process by either approving or rejecting the application and/or change.
6. However, while the point of contact between the DMV and CVRS is all-electronic, the process between the voter and the DMV still involves some paper in many instances.
7. While the DMV does have options for interacting with its process entirely electronically, customers of the DMV may still fill out forms by hand and the information from such forms is then entered into the electronic system by an employee of the DMV.
8. In some instances the paper forms are delivered to the DMV in person by the customer, but they are also often sent via postal mail when in-person delivery is not required.
9. Included in the MOU—and integral to the NVRA—are strict rules on the form requirements of the paper forms used for registering to vote and for changing an address.
10. At all times relevant to the instant matters, the DMV voter registration forms utilized were not only NVRA-compliant, but they were specifically subject to review by the DOJ under the MOU.

Allegations

File No. 2018-075

11. In File No. 2018-075, Complainant Evanthia Sikora alleged that her voter registration was improperly amended to remove her party affiliation, which resulted in her being unable to participate in her party’s primary in August 2018.
12. Specifically, Ms. Sikora alleged that she had been an enrolled member of the Republican Party since approximately June 2016, but that when she showed up at her polling place to vote in the August 14, 2018 primary for Republican Party races for state offices, her name did not appear on the enrollment list.

13. Ms. Sikora alleged that after being turned away from the polls, she discovered that pursuant to an application for a new driver's license at the DMV from 2016, she had been moved off the enrollment list, an act she alleged was against her specific wishes and against how she filled out the voter registration application form included with the license application form.

File No. 2018-070

14. In File No. 2018-070, Complainant Lawanda Frederick alleged that her voter registration was improperly amended to change her registered address from her residence in the City of New Haven to a residence in the Town of North Branford.
15. Ms. Frederick's experience was similar to Ms. Sikora's experience insofar as she alleged that she only discovered this change of address after being turned away at the polls on August 14, 2018 when she attempted to vote in the Democratic Party primary at her regular polling place in the City of New Haven.
16. Unlike Ms. Sikora, Ms. Frederick was unaware at the time of Complaint that her issue may have been due to an act or omission by the DMV.

File no. 2018-085

17. In File No. 2018-085, Referring Official Fred DeCaro, the Republican Registrar of Voters for the Town of Greenwich, alleged generally that DMV employees were "making judgement calls regarding voter registration eligibility instead of forwarding paper forms to the registrars of voters" and that specifically the DMV had improperly allowed a non-citizen to register.
18. In addition to the systemic complaint concerning the all-electronic process, the Referring Official alleged specifically that Greenwich resident Michelle Berk's voter registration application, which was included with her application for a change of address with the DMV, was improperly entered into the system by the DMV and resulted in what he claimed was a non-citizen being allowed to register to vote.
19. Specifically, the Referring Official alleges that Ms. Berk contacted his office after receiving a confirmation of her registration and alleged that she did not intend to register to vote at all.
20. The Referring Official alleges that his office obtained the original form submitted to the DMV and pursuant to his conversation with Ms. Berk and his office's review of the form,

he believes that Ms. Berk was “registered in opposition to [her] desire, and also in opposition to the laws of voter eligibility.”

Law

21. The federal NVRA responsibilities are incorporated at state law in chapter 143 of Title 9 of the General Statutes.

22. General Statutes § 9-19h reads, pertinent part:

...

(b) In addition to the requirements of subsection (a) of this section, the Commissioner of Motor Vehicles, not later than January 1, 1994, shall include an application for the admission of an elector with each application form provided for a motor vehicle operator's license and a motor vehicle operator's license renewal, which are issued under subpart (B) of part III of chapter 246, and with each application form provided for an identity card issued under section 1-1h. Such application form for the admission of an elector (1) shall be subject to the approval of the Secretary of the State, (2) shall not include any provisions for the witnessing of the application, and (3) shall contain a statement that (A) specifies each eligibility requirement, (B) contains an attestation that the applicant meets each such requirement, and (C) requires the signature of the applicant under penalty of perjury. The Commissioner of Motor Vehicles shall accept any such completed application for admission which is submitted in person or by mail. **The applicant shall state on such form, under penalty of perjury, the applicant's name, bona fide residence address, date of birth, whether the applicant is a United States citizen, party enrollment, if any, prior voting address, if registered previously, and that the applicant's privileges as an elector are not forfeited by reason of conviction of a felony.** No Social Security number on any such application form for the admission of an elector filed prior to January 1, 2000, may be disclosed to the public or to any governmental agency. The commissioner shall indicate on each such form the date of receipt of such application to ensure that any eligible applicant is registered to vote in an election if it is received by the Commissioner of Motor Vehicles by the last day for registration to vote in an election. **The commissioner shall provide the applicant with an application receipt,** on a form approved by the Secretary of the State and on which the commissioner shall record the date that the

commissioner received the application, using an official date stamp bearing the words "Department of Motor Vehicles". The commissioner shall provide such receipt whether the application was submitted in person or by mail. The commissioner shall forthwith transmit the application to the registrars of voters of the applicant's town of residence. If a registration application is accepted within five days before the last day for registration to vote in a regular election, the application shall be transmitted to the registrars of voters of the town of voting residence of the applicant not later than five days after the date of acceptance. The procedures in subsections (c), (d), (f) and (g) of section 9-23g which are not inconsistent with the National Voter Registration Act of 1993, P.L. 103-31, as amended from time to time, shall apply to applications made under this section. **The commissioner is not an admitting official and may not restore, under the provisions of section 9-46a, electoral privileges of persons convicted of a felony.** (Emphasis added.)

23. General Statutes § 9-19i reads:

Any change of address form submitted by a person in accordance with law for purposes of a motor vehicle operator's license shall serve as notification of change of address for voter registration for the person unless the person states on the form that the change of address is not for voter registration purposes. The Commissioner of Motor Vehicles shall forthwith transmit such change of address information to the registrars of voters of the town of the former address of the person. If the name of the person appears on the registry list of the town, and if the new address is also within such town, the registrars shall enter the name of such elector on the registry list at the place where he then resides. If the name of the person appears on the registry list of the town and if the new address is outside such town, the registrars shall remove the name of such elector from the registry list and send the elector the notice, information and application required by section 9-35.

24. General Statutes § 9-23n reads:

(a) As used in this section, "voter registration agency" means (1) public assistance offices, (2) all offices in the state that provide state-funded programs primarily engaged in providing services to persons with disabilities, (3) libraries that are open to the public, and (4) such other

appropriate offices as the Secretary of the State shall designate in accordance with the National Voter Registration Act of 1993, P.L. 103-31, as amended from time to time.

(b) Voter registration agencies shall (1) distribute mail voter registration application forms, (2) assist applicants for such assistance or services in completing voter registration application forms, except for applicants who refuse such assistance, (3) accept completed voter registration application forms and provide each applicant with an application receipt, on which the agency shall record the date that the agency received the application, using an official date stamp bearing the name of the agency, and (4) immediately transmit all such applications to the registrars of voters of the town of voting residence of the applicants. The agency shall provide such receipt whether the application was submitted in person or by mail. If a registration application is accepted within five days before the last day for registration to vote in a regular election, the application shall be transmitted to the registrars of voters of the town of voting residence of the applicant not later than five days after the date of acceptance. The voter registration agency shall indicate on the completed mail voter registration application form, without indicating the identity of the voter registration agency, the date of its acceptance by such agency, to ensure that any eligible applicant is registered to vote in an election if it is received by the registration agency by the last day for registration to vote in an election. If a state-funded program primarily engaged in providing services to persons with disabilities provides services to a person with a disability at the person's home, the agency shall provide such voter registration services at the person's home. The procedures in subsections (c), (d), (f) and (g) of section 9-23g that are not inconsistent with the National Voter Registration Act of 1993, P.L. 103-31, as amended from time to time, shall apply to applications made under this section. **Officials and employees of such voter registration agencies are not admitting officials, as defined in section 9-17a, and may not restore, under the provisions of section 9-46a, electoral privileges of persons convicted of a felony.** (Emphasis added.)

Investigation

File No. 2018-075

25. Based on the investigation, the Commission was able to determine that Ms. Sikora submitted a paper DMV Voter Registration Application form—version 7/2016—for a new driver's license at the Wethersfield DMV on or about August 19, 2016, which included a paper application form for voter registration.
26. The DMV paper voter registration form includes a statement at the top of the form in which the voter may check a box and affirm via signature that "I do not want to register to vote OR I am already registered to vote and do not want to change my party affiliation."
27. The bottom of the DMV voter registration application form includes an NVRA-compliant voter registration application ("VRA") that mirrors the content included on a regular non-DMV VRA.
28. On Ms. Sikora's DMV VRA, she clearly checked the box and signed the affirmation indicating that she did not wish to make any changes.
29. The DMV admitted in this instance that it failed to correctly enter Ms. Sikora's data and instead mistakenly re-registered her at her current address, but, importantly, without a party affiliation.
30. This data entry error resulted in the registrars of her town, Farmington, receiving a change-of-party affiliation notice from the DMV, which they implemented on or about August 23, 2016.
31. The investigation also revealed that as part of the DMV's regular process, Ms. Sikora would have been handed a separate "DMV VOTER REGISTRATION RECEIPT," printed on standard paper, indicating in bold, uppercase lettering the fact that she had chosen to move her affiliation status to "UNAFFILIATED."
32. The investigation also revealed that as part of the registrars' regular process Ms. Sikora would have been mailed a notice indicating her change of party as well.
33. Neither of these offices retain originals of these notices, but both offices affirmed that these communications are standard notifications for anyone changing or adding a voter registration.

File No. 2018-070

34. The investigation here revealed that an error generating from the DMV also resulted in an incorrect change here.
35. However, in this instance, this error resulted from an action taken by another voter whose application for a change of address at the DMV was mistakenly entered into the Complainant's DMV record.
36. On or about January 24, 2018, voter Ann Marie Wilson mailed a DMV change of address form—revision 9-2016—which also included a voter registration application, changing her address from East Haven to an address in North Branford.
37. The investigation here revealed that Ms. Wilson's driver's license number is one digit off from that of the Complainant.
38. The investigation revealed, and the DMV admitted, that on or about February 2, 2018, it mistakenly mistranscribed one number of Ms. Wilson's driver's license, pulled up the Complainant's record, failed to notice the difference in names, and made the change in the incorrect record.
39. Ms. Wilson submitted a statement that the owner of her North Branford home received a standard notice from the registrars of Ms. Frederick's change of registration to the North Branford address.
40. On or about March 1, 2018, Ms. Wilson submitted a second change of address form—revision 12-2017, the latest version—which the DMV correctly implemented and both her DMV address and her registered voting address were changed to the North Branford home.

File No. 2018-085

41. The investigation revealed that resident Michelle Berk moved within the Town of Greenwich and submitted a Individual Change of Address/Voter Registration Application form—revision 12-2017—via postal mail.
42. The revision 12-2017 form begins with a title stating “Individual Change of Address/Voter Registration Application”

43. As the Referring Official pointed out, Ms. Berk crossed out in pen the title portion at the top of the form stating “Voter Registration Application.”
44. Below the title, the instructions on the form state “You are only required to fill in the sections applicable to your needs.”
45. Section 1 of the form contains a space for the new address, which Ms. Berk filled out.
46. Also included within Section 1 of the form is a box stating “Check here if this change of residence address is NOT for voter registration purposes, along with instructions of how the customer’s voter registration address will be changed to the DMV address if the box is not checked .
47. Ms. Berk checked the box indicating that the change of residence address was not for voter registration purposes.
48. Ms. Berk left Sections 2 and 3 blank—mailing address and changing vehicle address—and filled out Sections 4 and 5—email address and organ donation.
49. Section 6 of the DMV form is the last section and is the NVRA-compliant DMV Voter Registration Application.
50. Instead of leaving Section 6 blank, Ms. Berk filled in some portions of Section 6 and, importantly, signed the “Voter Declaration” section.
51. Like the regular VRA found in registrar offices, the first portion of the DMV Voter Registration Application contains two check boxes in which the voter affirms that s/he is or is not a citizen of the United States and will or will not be 18 years of age.
52. Ms. Berk appears to have checked the “No” box concerning citizenship, but then appears to have then scribbled over almost the entire box. Ms. Berk did not make a selection regarding obtaining the age of majority by Election Day.
53. Like the regular VRA found in registrar offices, the next section of the DMV VRA includes checkboxes in which the applicant may select a party affiliation, including the two major parties, an “other” party option that the voter may write in, or a “No I do not wish to enroll in a party at this time and will be registered as Unaffiliated” (emphasis in the original).
54. Ms. Berk checked the box selecting being registered as “Unaffiliated.”

55. Like the regular VRA found in registrar offices, the last section of the DMV VRA is the “VOTER DECLARATION” in which it states:

I swear or affirm under penalty of perjury that:

- I am a U.S. Citizen
- I have not been convicted of a disfranchising felony, or if so, I am eligible to register to vote.
- I live in Connecticut at the address shown
- I am at least 17 years old and will be 18 years old on or before election day.

56. Below this section and just to the left of the signature/date block, the form states “Voter registrations without a signature will not be processed.”

57. Ms. Berk signed and dated the Voter Declaration section and went further to write in check marks on the four affirmations listed above.

58. Ms. Berk cooperated with this investigation fully. She stated that she did not in fact intend to apply to vote, but asserted that she did fill out all of the sections indicated above on her own.

59. Mr. Berk confirmed that she made an error when she checked the “No” box under citizenship.

60. Mrs. Berk proved to Commission investigators with more than sufficient evidence that she was born in the United States and remains a United States citizen.

Response

61. The DMV was prompt and thorough in its responses to all of the matters here.

File No. 2018-085

62. As concerns the allegations brought by the Referring Official, the DMV, through then-Commissioner Bzdyra, responded in full and denied both the general allegations brought regarding the electronic process, but also specifically asserted that the DMV handled Mrs. Berk’s application correctly.

63. The DMV pointed out that the NVRA states that each driver’s license submitted to the DMV must also serve as an application for voter registration “unless the applicant fails to sign the voter registration application.”

64. The DMV further asserted that the DMV and its employees are not “admitting officials” under any definition found in Title 9 and that it merely acts as a conduit for sending information from VRAs to the registrars in the 169 towns.
65. The DMV asserted that it has no evidence that it has ever registered a non-citizen and in fact asserted that its system built with safeguards whereby if someone checks that they are not a citizen, the system does not allow the DMV official to continue with the application.
66. Finally, as to the general allegations made by the Referring Official, the DMV asserted that in full compliance with the MOU, all of the VRA forms used by the DMV have been approved by the DOJ Civil Rights Voting Section prior to being put into use.
67. As to the allegations regarding Mrs. Berk’s applications specifically, the DMV asserted that its employee entered the information correctly, including but not limited to the citizenship information. The DMV asserted that it was clear from the form that Mrs. Berk had scratched out the section where she had indicated “No” for citizenship.
68. Finally, the DMV asserted that even though Mrs. Berk failed to fill out both of the check boxes (citizenship and age), she signed the affirmation, under the penalties of false statement, regarding both age and citizenship contained at the bottom of the form and placed check marks next to each of the criteria.

File Nos. 2018-070 and 2018-075

69. As stated in the investigation section, the DMV admitted that it was its own clerical errors that led to the changes to Ms. Sikora’s and Ms. Fredrick’s voter registration.
70. The DMV stated that per the requirements of the NVRA and the MOU with the DOJ, the DMV trains all new employees on the system and conducts yearly mandatory refreshers for all existing employees.
71. The DMV asserted that in addition, it regularly audits its registration transactions for accuracy pursuant to a clause in the MOU.
72. Regarding Ms. Sikora’s application, the DMV asserted that while the error was clearly and blatantly theirs and theirs alone, the system had just been implemented at the time Ms. Sikora’s application was submitted and the employees were still becoming acclimated to the new inputs.

73. Regarding both Ms. Sikora and Ms. Frederick, the DMV asserted that there were backstops built into the voter registration system that should have served to catch the errors before they were material.
74. That is, both individuals would have received notice of the change from the registrars mailed to their residence address. Importantly in Ms. Frederick's case, the notice would have gone to "old" address in New Haven, as required by General Statutes § 9-35 (c).¹
75. Regarding Ms. Sikora's party change, the DMV asserted that she would have received a clearly labeled receipt, in hand at the point of the transaction, informing her that a voter registration change had occurred—in this case, that her party selection had changed to "unaffiliated."

Analysis

File No. 2018-085

76. Turning first to the allegations brought by the Referring Official, the Commission agrees that the DMV's forms and processes are fully compliant with the NVRA, state law, and the MOU with the DOJ. These forms and processes were arrived at by an agreement with the state's motor vehicle agency, the Civil Rights Division of the DOJ—the body primarily responsible for NVRA compliance and enforcement—and the Connecticut Secretary of the State, the state's highest ranking elections official.
77. The MOU created a set of systems and forms that are arguably more scrutinized than any other systems and forms in place in Connecticut at this time.
78. While the Referring Official may disagree with the agreed-upon implementation of this system—specifically, it seems, that paper forms are no longer forwarded to the registrars—

¹ General Statutes § 9-35 (c) reads:

"(c) Whenever the registrars of voters of a town remove from the registry list the name of an elector who has submitted a change of address to the Commissioner of Motor Vehicles or a voter registration agency under subdivision (1) or (2) of subsection (b) of this section, indicating that the elector has moved out of such town, the registrars shall send the elector, by forwardable mail to the elector's former address from such list or current address in the new town, (1) a notice of removal, (2) information explaining how to have the elector's name restored to such list, which shall be in a form prescribed by the Secretary of the State, and (3) a mail-in voter registration application which can be used by the elector to apply for admission as an elector in the new town. If such notice, information and application are sent to the elector's former address and are returned undeliverable, the registrars shall mail such documents to the elector's address in the new town."

this is an issue of election policy that the Referring Official will need up with the parties to the MOU.

79. Importantly for the Commission here: these forms and systems do not violate any law under the Commission's purview. Accordingly, the Referring Official's allegations regarding the system and forms do not present an issue of law or fact for the Commission to consider here.
80. Regarding the specific issue of Mrs. Berk's application, the Commission also agrees that the DMV did the correct thing in transmitting that she had sufficiently filled out a Voter Registration Application and swore to all of the required declarations.
81. As noted above, the DMV VRA contains the same language as the regular VRA available at any Town Hall and also at other voter registration agencies and is fully compliant not only with the NVRA, but General Statutes §§ 9-20, 9-23g & 9-23h.
82. General Statutes § 9-20 reads, in pertinent part:

(a) Each person who applies for admission as an elector in person to an admitting official shall, upon a form prescribed by the Secretary of the State and signed by the applicant, state under penalties of perjury, **his name, bona fide residence by street and number, date of birth, whether he is a United States citizen, whether his privileges as an elector are forfeited by reason of conviction of crime, and whether he has previously been admitted as an elector in any town in this or any other state.** Each such applicant shall present his birth certificate, drivers' license or Social Security card to the admitting official for inspection at the time of application. Notwithstanding the provisions of any special act or charter to the contrary, the application form shall also, in a manner prescribed by the Secretary of the State, provide for application for enrollment in any political party, including, on any such form printed on or after January 1, 2006, a list of the names of the major parties, as defined in section 9-372, as options for the applicant. The form shall indicate that such enrollment is not mandatory. (Emphasis added.)

83. General Statutes § 9-23g reads, in pertinent part:

(b) The Secretary of the State shall prescribe, and provide to registrars of voters, town clerks and voter registration agencies, as defined in

section 9-23n, application forms and other materials necessary to complete such application and admission process. The Secretary of the State, registrars of voters and town clerks shall provide a reasonable number of such forms and materials to any elector who requests such forms and materials. The Secretary shall also, in the course of the Secretary's elections duties, prepare instructions and related materials describing procedures for such application and admission process and shall provide the materials to registrars of voters and town clerks. The application shall contain the information required under section 9-23h. All statements of the applicant shall be made under the penalties of perjury. **The application for admission as an elector shall include a statement that (1) specifies each eligibility requirement, (2) contains an attestation that the application meets each such requirement, and (3) requires the signature of the applicant under penalty of perjury.** Nothing in this section or section 9-23h shall require that the application be executed in the state. An applicant who is unable to write may cause the applicant's name to be signed on the application form by an authorized agent who shall, in the space provided for the signature, write the name of the applicant followed by the word "by" and the agent's own signature. The completed application may be mailed or returned in person to the office of the registrars of voters or the office of the town clerk of the applicant's town of residence or a voter registration agency. If the applicant entrusts the applicant's application to another person or to such a voter registration agency for mailing or return to the registrars of voters, such person or agency shall immediately mail or return the application. **Any such voter registration agency shall also provide the applicant with an application receipt, on which the agency shall record (A) the date that the agency received the application, using an official date stamp bearing the name of the agency, and (B) the party affiliation, if any, of the applicant.** The agency shall provide such receipt whether the application was submitted in person or by mail. The town clerk shall promptly forward any application which the town clerk receives to the registrars of voters. Such application form shall be provided by or authorized by the Secretary of the State. (Emphasis added.)

84. General Statutes § 9-23h reads:

The application provided for in section 9-23g shall provide spaces for the following information for each applicant: (1) Name, (2) bona fide

residence, including street number, street address, apartment number if applicable, town and zip code, (3) telephone number, (4) date of birth, (5) whether the applicant is registered as an elector in any other town in the state of Connecticut or in any other state, and if so, the applicant's last previous voting residence, (6) whether the applicant is a United States citizen, (7) whether the applicant will be eighteen years of age on or before election day, (8) party affiliation, if any, (9) the applicant's signature and date of signature, and (10) the applicant's Connecticut motor vehicle operator's license number or, if none, the last four digits of the applicant's Social Security number. The spaces for the applicant's telephone number and party affiliation shall indicate that such information does not have to be provided. On any such application printed on or after January 1, 2006, the space for the applicant's party affiliation shall also include a list of the names of the major parties, as defined in section 9-372, as options for the applicant. The spaces regarding United States citizenship and whether the applicant will be eighteen years of age on or before election day shall indicate that if the applicant answers "No" to either question, the applicant may not complete the voter registration form. No Social Security number on any such form filed prior to January 1, 2000, may be disclosed to the public or to any governmental agency. The application shall contain a notice that if the applicant does not receive a notice of acceptance or rejection of the application from the office of the registrars of voters for the municipality in which the applicant resides, the applicant should contact said office. The application shall also contain any other information, questions or instructions prescribed by the Secretary of the State.

85. And, while the check boxes regarding citizenship and age are specifically enumerated in § 9-23h—including a rule that if any box is checked "no" the application cannot be accepted—the statute does not state that the application is rejected if the applicant affirms and signs, but fails to check either box, as is the case here.
86. This is because the information in the check boxes is duplicative of some of the information in the affirmation. As such, if the voter fails to check either of the boxes, but signs the affirmation, that application cannot be rejected solely because the boxes were left empty. The voter has met his/her responsibilities.
87. This is the case here. Mrs. Berk filled out all of the pertinent portions of the form, checked, but then scribbled out the "no" on citizenship box, left the age box blank, but then signed

the portion of the form that attested, under the penalties of criminal false statement, that she met all of the eligibility requirements.

88. If a voter registration agency or any admitting official had a question as to whether or not Mrs. Berk checked or scribbled out the “No” box on citizenship, that question was put to rest by the signed attestation just below it.
89. Accordingly, considering the aforesaid, the Commission concludes that the DMV met its responsibilities when processing Mrs. Berk’s application. File No. 2018-085 should be dismissed.

File Nos. 2018-070 and 2018-075

90. Liability in these matters is not in dispute. The DMV made administrative errors regarding these voters’ registrations and those errors led to both of them being unable to restore their privileges and participate in their party’s state primary.
91. However, the Commission also notes that as mentioned above, the DMV’s voter registration system is extraordinarily scrutinized for accuracy. Indeed, as part of the “State Oversight of NVRA Compliance” section, the MOU sets up a monitoring and oversight system that requires:
 - a. Ongoing and continuous training of DMV employees on NVRA compliance;
 - b. Annual audits; and
 - c. Unscheduled site visits to review procedures, policies, forms, and training materials related to voter registration.
92. The Commission also notes that according to Commissioner’s Bzdya’s response, since the system was implemented in August 2016 through November 2018, the DMV processed over 250,000 voter registration applications and address/party changes.
93. While the Commission certainly encourages all actors in the elections system to aspire to 100% accuracy and perfection at all times, the occasional error is not unexpected.
94. Moreover, the Commission notes that the system is built with backstops that contemplate that election officials are not infallible and will make the occasional error.
95. Indeed, in both of these cases, these backstops resulted in notices being delivered to these Complainants—in Ms. Sikora’s case, twice—of the changes to their registrations.


96. While this does not absolve the DMV of liability, it does highlight that a clerical error by the DMV does not entirely absolve the voter of the responsibility to review important correspondence regarding their voting status and act accordingly when errors and/or inaccuracies exist.
97. Considering the aforesaid, while the situations that occurred are unfortunate, the Commission does not believe that any additional remedies are necessary here. Two cases out of 250,000 transactions is a demonstrably low error rate—and as pointed out above, even these two matters could have been avoided with some baseline vigilance by the Complainants. Moreover, whatever remedies the Commission would have contemplated in these matters to ensure future compliance are already in place via the MOU. While the Commission urges the DMV and the SOTS to continue to be vigilant in effectuating this important system, the Commission concludes that there is no need for further action here.

ORDER

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

File No. 2018-085: Dismissed.
File No. 2018-070: No Further Action
File No. 2018-075: No Further Action

Adopted this 21st day of August, 2019 at Hartford, Connecticut.



Anthony J. Castagno, Chair
By Order of the Commission