

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

In the Matter of a Referral of the Secretary of the State  
In the Matter of a Referral of the Secretary of the State

File No. 2019-007  
File No. 2019-008

**FINDINGS AND CONCLUSIONS**

The Secretary of the State brought these Referrals pursuant to Connecticut General Statutes § 9-7b, alleging that the Derby and Hamden Registrars failed to fully and/or properly implement the redistricting in a portion of their towns.

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

**Background**

1. By way of background, every ten years after the national census, the state is required to redistrict the state and federal district lines as necessary to achieve the appropriate apportionment of electors in each district.
2. The General Assembly convened a Reapportionment Commission in January 2011 and adopted new district maps for the General Assembly on or about November 30, 2011, the constitutional deadline for the submission of such maps.
3. However due to disagreement over the Congressional maps, the process went to the Connecticut Supreme Court for resolution, which occurred on or about February 10, 2012, at which point such maps were filed with the Secretary of the State.
4. Copies of such maps were then distributed to each of the 169 towns' registrars of voters with orders to conform their maps and lists of electors to the newly drawn lines.
5. The Respondents in 2019-007 and 2019-008 were, respectively, the Registrars of Voters in Hamden and Derby at all times relevant to the instant Referrals and were responsible for

implementing any necessary changes to their town's maps and list of electors subsequent to the redrawing of the district lines by the Reapportionment Commission.

**Law**

6. Pursuant to Article 26th of the Amendments to the Constitution of the State of Connecticut, the state shall reapportion its districts every 10 years subsequent to the decennial national census.
7. Registrars of Voters are required to redraw lines and reapportion voters according to the maps drawn by the Reapportionment Commission of the General Assembly. General Statutes § 9-169 reads, in pertinent part:

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

of voters and all other officers of the municipality shall perform the duties required of them by law with respect to elections in each voting district established in accordance with this section. *Voting district lines shall not be drawn by a municipality so as to conflict with the lines of congressional districts, senate districts or assembly districts as established by law, except (1) as provided in section 9-169d and (2) that as to municipal elections, any part of a split voting district containing less than two hundred electors may be combined with another voting district adjacent thereto from which all and the same officers are elected at such municipal election.* Any change in the boundaries of voting districts made within ninety days prior to any election or primary shall not apply with respect to such election or primary. The provisions of this section shall prevail over any contrary provision of any charter or special act. (Emphasis added)

8. General Statutes § 9-169a reads, in pertinent part

For the purposes of this section and section 9-169, “split voting district” means a voting district which was divided by statute or otherwise divided by law pursuant to article 26 of the amendments to the Constitution of Connecticut or an order of a court of competent jurisdiction between two or more congressional, senatorial or assembly districts within a town so that a part of such split voting district was allocated to one congressional, senatorial or assembly district and the other part or parts thereof were allocated to another or other congressional, senatorial or assembly districts. Such part of a split voting district so allocated to a congressional, senatorial or assembly district shall be a separate voting district and shall have its own separate enrollment list, registry list, list of unaffiliated electors if required under section 9-55, and polling place, and shall for all other administrative purposes be treated as a separate voting district. . . . (Emphasis added.)

9. General Statutes § 9-169b reads:

Notwithstanding the provisions of sections 9-168b and 9-169, any change or changes in voting districts made in any municipality in accordance with the provisions of section 9-169, to conform, or facilitate conforming, to any plan of districting for the General Assembly or for the congressional districts, adopted by the General Assembly or

determined by any reapportionment commission, appointed in accordance with the provisions of article 26 of the amendments to the Constitution of Connecticut, or ordered by a court of competent jurisdiction, or to conform, or facilitate conforming, to any order entered by a court of competent jurisdiction relating to a plan of districting for the General Assembly or for the congressional districts, adopted by the legislative body of the municipality shall be deemed effective as of the date of adoption, except as provided in section 9-169e. (Emphasis added.)

10. General Statutes § 9-169g reads:

(a) The town clerk of any municipality (1) which is divided between two or more assembly districts, two or more senatorial districts or two or more congressional districts, or (2) which is not divided between any such districts but is divided into two or more voting districts for General Assembly or congressional elections, shall submit to the Secretary of the State a street map of the municipality which indicates the boundary lines of the voting districts established by the municipality in accordance with sections 9-169, 9-169a and 9-169d. The town clerk shall submit such map to the secretary in a printed or electronic format prescribed by the secretary (A) not later than thirty days after any such division first takes effect, and (B) not later than thirty days after any change in any such division takes effect.

(b) The Secretary of the State shall make such maps available to the General Assembly, for use by the General Assembly in carrying out its responsibilities under (1) Article XXVI of the Amendments to the Constitution of Connecticut, or any subsequent corresponding state constitutional provision, with regard to the redistricting of assembly, senatorial and congressional districts, and (2) Public Law 94-171, concerning the establishment of a plan identifying the geographic areas for which specific tabulations of population are desired in the decennial census of the United States.. (Emphasis added)

## **Investigation**

11. Both pairs of Respondent Registrars here were cooperative with the instant investigation.

12. According to the Respondent Registrars, they received the new maps created by the Reapportionment Commission, but little to no direction on how to go about interpreting the maps and moving the affected electors correctly.
13. Each assert that they believed that they had done it correctly at the time until the issue central here was brought to their attention in 2018.

### **Hamden**

14. In Hamden, the Registrars assert that they became aware of an issue with their application of the Redistricting Commission maps subsequent to the November 2018 General Election when there was a canvass of the results of a close race for the 17<sup>th</sup> Senate district in the General Assembly.
15. After further investigation, the Hamden registrars discovered that a portion of Paradise Avenue, a disconnected street that runs between the 17<sup>th</sup> and 11<sup>th</sup> Senate districts in the General Assembly, was supposed to be moved from the 11<sup>th</sup> to the 17<sup>th</sup>, but remained in the 11<sup>th</sup> for the 2018 General Election.
16. Paradise Avenue is a disconnected street that has no less than three breaks in it, including a long break in the area of West Rock State Park.
17. The investigation here revealed that the 2017 Street Guide published by the Town of Hamden listed 1301 through 1975 Paradise as falling in the 11<sup>th</sup> Senate district in the General Assembly.
18. However, the investigation revealed that 1301 through 1705 should have been moved into the 17<sup>th</sup> Senate district in the General Assembly (and were moved after this issue came to light).
19. This portion of the street starts at its southernmost point from after the first break for Laurel View Country Club golf course, breaks again at West Shepard Ave and continues until the next break in West Rock State Park.
20. Per current CVRS numbers, 1301 through 1705 represents 25 addresses at which electors are registered and a total of 66 current electors.

21. According to the Town of Hamden, per the Town Charter, the Hamden Legislative Council established the Hamden Reapportionment Commission in June 2012. The Hamden Reapportionment Commission hired a contractor who assisted the Commission in developing a plan for drawing up 10 voting districts for state elections and 9 voting districts for municipal elections using a “CNVS Redistricting Module” program. After the Council adopted the Hamden Commission’s plan, the Hamden Registrars then revised their Town of Hamden Street Guide, a document that allows voters to look up their street addresses and find out all of their different federal, state, and local districts.
22. After being made aware of the issue on Paradise Avenue enumerated above, the Registrars assert that they made the necessary changes to the elector’s State Senate assignments in CVRS and also made changes to the CNVS Redistricting Module to account for the Paradise Avenue issue.
23. The investigation revealed that no review was done of the Respondent Hamden Registrars’ application of the new maps to the registry lists for the 11<sup>th</sup> and 17<sup>th</sup> Senate districts and no review was required to be done by law.
24. The Registrars assert that since the discovery of the issue occurred after the 2018 General Election, they did not send the affected voters a special notice, as the state election had already passed.
25. Per their usual practice, they assert that all voters will receive a card informing them of their appropriate districts ahead of the next state primary and/or election in 2020.
26. While the Secretary’s referral did not allege any specific harm due to the error, the Commission notes that the investigation revealed that the State Senate race in the 17<sup>th</sup> District between Jorge Cabrera and George Logan was extremely close during the 2018 General Election, only 85 votes according to the Statement of Vote by the Secretary of the State. While the 66 voters in the wrong district could not have overturned that result, it could have narrowed it by as little as 19.

## **Derby**

27. The Derby registrars assert that in July 2018, during the 2018 election season, the Chair of the Derby Republican Town Committee made them aware that there may have been a discrepancy between the Redistricting Commission maps and the registry list in the areas of Park Avenue and Roosevelt Drive in relation to the apportionment of electors between the 104<sup>th</sup> and 105<sup>th</sup> House seats in the General Assembly.

28. The investigation revealed that no review was done of the Respondent Registrars' application of the new maps to the registry lists for the 104<sup>th</sup> and 105<sup>th</sup> and no review was required to be done by law.
29. After further investigation, they were able to confirm that 20 address at the edge of the border between the two districts were indeed not in the correct Assembly district subsequent to the 2011 redistricting.
30. These addresses were on parallel roads, Park Avenue and Roosevelt Drive, at the Southwest corner of the district (and the town).
31. According to the registrars, they made the changes to the 37 affected electors registered at these addresses ahead of the 2018 General Election, sent letters with instructions to each elector, and also informed the Secretary of the State's Office of the change.
32. The investigation revealed that the roughly 20 affected addresses were in the 104<sup>th</sup> Assembly district for three state election cycles, 2012, 2014, and 2016.
33. While the Secretary's referral did not allege any specific harm due to the error, the investigation revealed that one of the affected electors was State Representative, then-candidate, Kara Rochelle, the Democratic Party nominee for the 104<sup>th</sup> who was endorsed in May 2018, at least 2 months prior to the discovery of the issue.
34. After discovery of the issue came to light, Ms. Rochelle continued to run for the seat and won. She moved to a home in Ansonia that was within the district prior to taking office.
35. While Representative Rochelle did not appear to give the Respondents any public reproach for the issue at the time, she subsequently was quoted as calling for reforms to the reapportionment system that would allow for a check of each town's application of the new maps.
36. Beyond the issue with Representative Rochelle's residency, the investigation was unable to reveal any evidence of other measurable harm.
37. As stated above, the Respondents were cooperative in the instant investigation and asserted that they believed at the time that they had applied the changes correctly in 2012.

38. The Respondents asserted that they received the new maps with little instruction as to how to determine which specific residence had changed districts and did their best to interpret the maps correctly, even consulting others outside of their office to help them compare the new maps with the prior maps.
39. The Respondents expressed remorse for the error and what harm such error may have caused.

### **Analysis**

40. Liability is straightforward here. General Statutes § 9-169 requires that “[v]oting district lines shall not be drawn by a municipality so as to conflict with the lines of congressional districts, senate districts or assembly districts as established by law.”
41. Here, there is no dispute that the Respondent Registrars reading of the maps was in conflict with the State Reapportionment Commission maps for the General Assembly districts in Hamden and Derby.
42. This is a case of first impression for the Commission. While certainly registrars should be expected to accurately place voters in the correct district after reapportionment, the effect of failing to do so correctly is difficult to measure in all situations. No elector was disenfranchised, as such. Each of the electors remained constituents of *someone* in both instances, just not the person whom it should have been after reapportionment.
43. However, the omission did directly affect the Democratic Party’s nomination of a candidate. In this case the effect was minimal, as Representative Rochelle was permitted to run from outside the district by law and was willing to move before taking office. Had this not been the case, the effect could have been a more significant interruption of the democratic process, with the potential loss of a major party nominee due only to the error of these Respondent Registrars.
44. In the end, thanks largely to Representative Rochelle’s willingness to make the sacrifice for public service, the race for the 104<sup>th</sup> was unaffected and the Democratic Party’s will.
45. The Commission notes that the evidence does not suggest that any bad faith was at play in either case. And as this is a case of first impression for the Commission, there is no history of similar acts or omission for these or any respondents.



46. The Respondent Registrars here appear to have made best efforts under the circumstances, without sufficient guidance on how to proceed in correctly determining the changes or established mechanisms at the state level for checking their work.
47. In both cases the potential issues were discovered by a third party during the 2018 election cycle, many years after the fact, and only came to the Secretary's attention due to a confluence of events.
48. Subsequent to the discovery of these cases, the Secretary also added her voice to Representative Rochelle's call for legislation instituting a process of auditing the accuracy of each town's application of the new district lines.<sup>1</sup>
49. The Commission concurs that it is unfortunate that there are no enumerated processes in Title 9, or in regulation, detailing how registrars are to determine what, if any, changes must be made after receipt of the Apportionment Commission maps or established audit mechanisms for third party review of such changes.
50. Here, the registrars in all 169 towns were left to their own devices to interpret the maps, identify all of the changes, and apply those changes to the registry list, with little direction or oversight from any other agency and/or organization.
51. The Commission agrees with the Secretary that this is unacceptable and may only be a small sample of what may be a larger problem of misapportioned districts across the state. However, we have no mechanism for knowing the scope of the issue and can only speculate.
52. The Commission finds this regulatory gap unacceptable and agrees with the Secretary that it should be addressed statewide before the 2021 Reapportionment Commission's maps are completed.
53. However, while the Commission believes that the registrars here are not without some culpability, the evidence here suggests external aggravating—and avoidable—factors weighed unjustly against success in every instance.
54. Accordingly, the Commission will take no further action in these matters.

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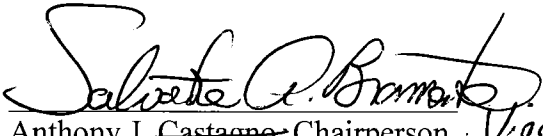
<sup>1</sup> "Hamden Mix-Up Sparks Call for Statewide Elections Audit" by Emilie Munson, Connecticut Post, February 14, 2019 (<https://www.ctpost.com/politics/article/Hamden-mix-up-sparks-call-for-audit-of-all-13616543.php>)

**ORDER**

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

No further action.

Adopted this 15<sup>th</sup> day of July, 20   at Hartford, Connecticut.

  
~~Anthony J. Castagno~~, Chairperson · *Vice*  
By Order of the Commission  
*Salvatore A. Bramante*