

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Secretary of the State Denise Merrill,
Hartford

File No. 2020-054

FINDINGS AND CONCLUSIONS

The Secretary of the State referred this matter, based on a letter to her office by State Representative Geraldo Reyes, Jr., who asserted that Waterbury Registrars of Voters Teresa Begnal and Timothy DeCarlo improperly relocated a polling place associated with his Connecticut General Assembly district ahead of the August 11, 2020 primaries outside of the district lines and, separately, that such Registrars improperly canvassed and removed electors.

1. Secretary Merrill, by her referral, incorporated two allegations made by Representative Reyes in a letter of complaint to her office based against Waterbury ROVs Begnal and DeCarlo regarding their relocation of a polling place and the removal of electors from voter registry lists prior to the August 11, 2020 Democratic primary in the City of Waterbury.

Allegations

2. Allegation One alleged that:

Prior to August 11, 2020 primary, the complainant claims that he received notice of the change of polling locations only a few days prior to the primary and that such designated polling location was not convenient in light of alternative venues that were available.

3. Allegation Two alleged that:

The complainant alleges that the Registrar of Voters office performed [the annual canvass of voters to ascertain and correct changes of address] to the detriment of only himself.

Applicable Law

4. General Statutes § 9-168 concerns the designation of polling places in municipalities divided into separate voting districts and reads, in pertinent part:
In any town not divided into voting districts, the place of holding elections may be determined by the legislative body of such town.
In towns divided into voting districts the place of holding elections shall be determined as provided in section 9-169 or any special act, whichever applies. Except as provided in section 9-169a, state

elections shall be held at the usual place or places of holding elections in the town or the voting districts thereof, as the case may be, unless the registrars of voters, in writing, have designated to the clerk of such town, at least thirty-one days before any such state election, a different place or places for holding such election. Unless otherwise provided by special act, the place of holding city or borough elections shall be determined by the legislative body of such city or borough. Any provision of any charter or special act to the contrary notwithstanding, the place or places of holding an election shall be determined at least thirty-one days prior to such election, and such place or places shall not be changed within the period of thirty-one days prior to such election 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.

5. General Statutes § 9-168b provides for a procedure by which registrars of voters may relocate a polling place into an adjacent district and reads:

When in the written opinion of the registrars of any municipality, the lack of an existing convenient or suitable polling place within the lines of a particular voting district necessitates the designation of a polling place in an adjacent district, such registrars may designate a convenient and suitable polling place in a voting district adjacent thereto, located as near as possible to the boundaries of the voting district for which designated. A separate location from the existing polling place for such adjacent district shall be designated, except that a separate room within such existing polling place may be designated. Such written opinion and designation shall be filed with the municipal clerk not later than ninety days before a regular election, or primary. Within ten days after such filing, the municipal clerk shall cause notice of such filing to be published in the newspaper having the greatest circulation in the town. Such designation shall remain in effect for future elections and primaries, until the registrars file a document with the municipal clerk stating that the designation of such polling place in an adjacent district is no longer necessary.

6. General Statutes § 9-32, provides:

(a) In each municipality the registrars, between January first and May first, annually, shall cause either (1) a complete house to house canvass to be made in person of each residence on each street, avenue or road within such municipality, (2) a complete canvass to be made by mail of each residence located on each street, avenue or road within such municipality, provided, upon agreement of both registrars, the National Change of Address System of the United States Postal Service may be used instead of such mailing, (3) a complete canvass to be made by telephone of each residence located on each street, avenue or road within such municipality, or (4) a complete canvass of each residence within such municipality by any combination of such methods, for the purpose of ascertaining the name of any elector formerly residing on such street, avenue or road who has removed therefrom; provided in the odd-numbered years, no canvass need be conducted by the registrars in a town which holds its regular municipal election on the first Monday of May in odd-numbered years. The Secretary of the State shall adopt regulations in accordance with the provisions of chapter 54 setting forth the procedure to be followed in conducting any such canvass by either mail or telephone.

(b) No elector's name shall be removed from the registry list, pursuant to section 9-35, unless (1) the elector confirms in writing that the elector has moved out of the municipality, or (2) the elector has been sent, by forwardable mail, a notice and a postage prepaid preaddressed return card in accordance with the National Voter Registration Act of 1993, P.L. 103-31, as amended from time to time, four years prior to removal from the registry list and such elector has failed to respond and has not restored the elector's name to the active registry list under section 9-42 or voted in an election or primary in the municipality during the period beginning on the date of the notice and ending four years later. If a registrar or a registrar's designee conducts a telephone canvass, a telephone call by any such person shall constitute an attempt to contact the elector only if the elector's household has a published telephone number and the telephone is in operating order. If a registrar, or a registrar's designee, during a telephone canvass contacts a

telecommunication device for the deaf in an elector's household, such call shall not constitute an attempt to contact the elector unless the registrar, or the registrar's designee, uses a similar device or uses a message relay center. No elector's name shall be removed from the active registry list pursuant to said section 9-35 as a result of information obtained during a telephone canvass, unless the registrar believes such information is reliable and sufficient to enable the registrar to determine if the elector is entitled to remain on the list under the provisions of this chapter.

(c) During any such canvass, a canvasser may distribute nonpartisan literature, prescribed by the Secretary of the State, which describes opportunities for voter registration. No Social Security number obtained by the registrars during the canvass prior to January 1, 2000, may be disclosed to the public or to any governmental agency. Each municipality shall provide its registrars of voters with funds sufficient to conduct the annual canvass in accordance with the requirements of this section. Not later than the thirtieth day following each regular election held in a municipality, the registrars of the municipality shall file with the Secretary of the State a certificate that the canvass was conducted prior to the election in accordance with the requirements of this section. The certificate shall be on a form prescribed by the Secretary of the State, shall specify the method or methods by which, and the date or dates on which, the canvass was conducted, and shall be signed under penalty of false statement by all registrars of voters of the municipality.

Facts After Investigation

Background

7. By way of background, the original date for Connecticut primaries was April 28, 2020. However, due to the Covid 19 pandemic they were subsequently postponed until June 2, 2020 and then further postponed to August 11, 2020. The respective announcements for postponing the primary dates were by Executive Orders issued on March 19, 2020 and April 17, 2020, respectively.
8. District 75 of the House of Representatives of the General Assembly (“75th House District”) was at the time represented by Mr. Reyes who made his complaint to the Office of the Secretary of the State that resulted in this referral.

9. The 75th House District is serviced by 4 separate voting districts, each with its own polling place. The polling place at issue here had been located in 2018 and 2019 at Xavier Hall in the St. Francis Xavier Church at 625 Baldwin Street, within the boundaries of the 75th House District.

Allegation One

10. The Registrars of Voters returned a detailed response through Waterbury Corporation Counsel to Allegation One concerning the relocation of the polling place at issue here.
11. In a letter dated January 24, 2020, the St. Francis Parish Office Manager informed the Respondent Registrars that “Xavier Hall is [no] longer available for electoral use.” At the time of the receipt of this letter the 2020 primary was still scheduled for its original date of April 28, 2020.
12. The Commission finds that the Waterbury Registrars of Voters and City of Waterbury Town Clerk determined based on the letter of January 24, 2020 that St. Francis Church was “rendered unusable” and began a search for a new location consistent with the requirements of General Statutes § 9-168.
13. For the August 11, 2020 primaries the Respondent Registrars relocated the polling place previously located at Xavier Hall to the Our Lady of Fatima church at 2071 Baldwin Street, located approximately 1.5 miles from St. Francis Xavier Church and approximately 0.5 miles outside of the 75th House District in the adjacent 71st House District.
14. On or about July 22, 2020, the Respondent Registrars sent mailed notices to all registered electors affected by the relocation of the polling place.
15. The Respondent Registrars asserted that shortly after the aforementioned letter from St. Francis Xavier Church, “[a] diligent and comprehensive search for suitable polling locations began.”
16. The Respondent Registrars asserted that they considered Roller Magic Skating Rink, Luso-Brazillian Seventh Day Adventist Church, the Ancient Order of Hibernians, and the River Baldwin Recreational Center within the 75th House District, as well as school locations outside of the 75th House District.

17. They assert that they conducted on-site tours of River Baldwin Recreation Center and the Hopeful School on or about February 24, 2020, but both were rejected as not “suitable,” along with the others, for either failing to meet the accessibility requirements of General Statutes § 9-168d, lacking adequate parking, or being in their opinion difficult to find for the relocated electors.
18. Upon investigation, the Commission finds that the decision to move the polling place to Our Lady Fatima Church, after the use of the previous location as was no longer available, based on their judgement that the “building met all the ADA requirements and had ample parking and was pursuant to Connecticut General Statutes § 9-168,” was a reasonable exercise of their statutory discretion to determine the suitability of locations for polling places.
19. The Commission further finds, as detailed herein, the Waterbury Registrars of Voters acted with due diligence when assessing the suitability of various building and locations to serve as polling places and expended considerable efforts in securing a suitable polling place under constraints they encountered upon learning they could no longer use St. Francis Xavier Church as a polling place.

Allegation Two

20. The Registrars of Voters returned a detailed response through Waterbury Corporation Counsel to Allegation Two denying the allegation that they conducted their annual canvass of voters to Representative Reyes’ “detriment.”
21. The Registrars of Voters provided details about how they conduct the annual canvass using the National Change of Address System (“NCOA”) and consistent with General Statutes § 9-32. They indicated that their annual canvass is by mail as provided for by that section.
22. After investigation, the Commission finds credible evidence that the Registrars of Voters conducted the 2020 annual voter canvass by issuing the requisite canvass cards by mail, as well as notices to respective voters, where information indicated that they had either moved within town or had moved out of town.
23. Further, the Registrars of Voters described the process by which mail returned to their office is used to gather information and verify that canvass cards have been returned by the postal service as undeliverable based on the addressee no longer being at that address. Further, they asserted that further verification occurred by monitoring of the records from the Waterbury Assessor’s Office.

24. The Commission finds credible evidence that the Registrars of Voters conducted the 2020 canvass of voters consistent with the requirements of General Statutes § 9-35. The Commission further finds a lack of evidence that their office's use of the NCOA, the Waterbury Assessors Office records and the monitoring of canvass cards returned by mail was used to the "detriment" of Representative Reyes.

Analysis and Conclusions

Allegation One

25. Allegation One alleged that Registrars of Voters Begnal and DeCarlo failed to provide a polling place that was "convenient in light of alternative venues that were available" when they chose Our Lady Fatima Church to locate a polling place after learning that the previous location was no longer available for such use.
26. After investigation, the Commission finds that the Registrars of Voters exercised diligence in choosing a new polling place during which time various locations were assessed and in light of the Covid 19 pandemic resulted in the postponement of the original April 28, 2020 primaries on two occasions and ultimately to August 11, 2020.
27. The Commission further finds that in light of the unique circumstances leading up to the rescheduled primary that the notice of a change in polling place location issued to the relevant electors by notice of July 22, 2020 was a good faith effort to satisfy the requirements of General Statutes § 9-168.
28. The Commission therefore takes no further action regarding Allegation One.

Allegation Two

29. Allegation Two was based on the complaint and allegation by Representative Reyes to the Office of the Secretary of the State that the Registrars of Voters conducted the 2020 annual voter canvass "to his detriment."
30. After investigation, the Commission finds that the Registrars of Voters provided a detailed and credible explanation of how they conducted the 2020 voter canvass by mail and utilizing canvass cards and notice based on the movement of electors within or out of town and as provided by General Statutes § 9-35.
31. The Commission further finds that the Registrars of Voters utilized information both from the NCOA and the Waterbury Assessors Office to verify their results of their voter canvass and changes of address.

32. The Commission finds the complaint and allegation that the 2020 voter canvass was somehow used to the “detriment” for Representative Reyes was not supported by the facts after investigation.

33. The Commission therefore dismisses Allegation Two as it was unsubstantiated.

34. For the reasons detailed herein the Commission takes no further action regarding Allegation One and dismisses Allegation Two.

ORDER

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

That no further action is taken regarding Allegation One and that Allegation Two is dismissed.

Adopted this 15th day of March, 2023 at Hartford, Connecticut.



Stephen T. Penny, Chairperson
By Order of the Commission