

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

In the Matter of a Complaint by Brian P. Boyd,  
Madison

File No. 2020-077B

**FINDINGS AND CONCLUSIONS**

Complainant, Brian P. Boyd, made this complaint pursuant to General Statutes § 9-7b. Complainant alleged that Town of Deep River Registrar of Voters Dale Winchell violated election laws by his conduct at the Deep River Elementary School polling place at the November 3, 2020 election. After investigating the allegations raised in the complaint the Commission makes the following findings and conclusions:

1. Complainant alleged that he was improperly “ejected” from the Deep River Elementary School polling place at the November 3, 2020 election in violation of the provision of in General Statutes § 9-236 that allows for the news media to remain within a polling place during an election.
2. At all times relevant to this complaint, Complainant was Editor of Shoreline Publications, Inc. Complainant also alleged violations of § 9-308 and § 9-309, as a result of being ejected “without cause.”
3. At all times relevant to this complaint, Respondent was the Deep River Registrar of Voters and Craig Rogoff was the Moderator at the Deep River Elementary School polling place during the November 3, 2020 election.
4. Further, allegations pertaining to violations of General Statutes § 9-308 and § 9-309 were not supported by the facts or the law after investigation; and therefore, the Commission dismisses these allegations.
5. This disposition pertains to Respondent only. Any resolution regarding additional Respondents are treated in a separate disposition.
6. The November 3, 2020 was the first election held during the Covid 19 pandemic.
7. General Statutes § 9-236, provides in pertinent part:

...

(c) No person shall be allowed within any polling place for any purpose other than casting his or her vote, except (1) those permitted or exempt under this section or section 9-236a, (2) primary officials under section 9-436, (3) election officials under section 9-258, including (A) a municipal clerk or registrar of voters, who is a candidate for the same

office, performing his or her official duties, and (B) a deputy registrar of voters, who is a candidate for the office of registrar of voters, performing his or her official duties, or (4) party checkers under section 9-235. ***Representatives of the news media shall be allowed to enter, remain within and leave any polling place or restricted area surrounding any polling place to observe the election, provided any such representative who in any way interferes with the orderly process of voting shall be evicted by the moderator. ...*** [Emphasis added.]

8. By way of background, because the election occurred during the Covid 19 pandemic the office of the Secretary of the State (“SOTS”), prior to the November 3, 2020 election, issued a 2020 Connecticut Safe Polls Plan Handbook (hereinafter “Handbook”), revised as of October 16, 2020.
9. The Handbook delineated details regarding the disinfection of polling places for the November 3, 2020 election and included details as to how wipes, sprays and chemicals could be used depending on whether they were to be applied to surfaces, ballots or IVS machines. The handbook incorporated US Center for Disease Control (“CDC”) guidelines regarding disinfection and Covid 19 and, as detailed herein, the SOTS deferred to individual municipalities and polling places on how such cleaning of the polling places on election day would be implemented.

General Statutes § 9-236 (c) and Representatives of the News Media

10. While the Commission has limited precedent in applying General Statutes § 9-236 pertaining to representatives of the news media, it has as early as 1995 determined that Registrars of Voters are required to allow the presence of the news media in a polling place. See *In the Matter of a Complaint by S. Vigneri*, Windham, File 95-217 (Where the Commission ordered Windham Registrars of Voters and moderators to henceforth comply with § 9-236; after the media was denied access to the polling place to monitor a referendum vote.) (1995).
11. Further, *In a Matter of the Complaint by Thomas Appleby*, New Fairfield, File No. 2007-414, a television cameraman was asked to leave as he attempted to film a mayoral candidate casting his ballot. While the cameraman was removed by the moderator and instructed by the Registrars of Voters by phone to leave the polling place, he was ultimately allowed back in the polling place. In *Appleby* the Respondent Moderator was ordered to henceforth strictly comply with General Statutes § 9-236.

12. The Commission has emphasized that General Statutes § 9-236 (c), "...is treated as a strict liability statute" and to be applied to any location in which a voting tabulator is located. See *In the Matter of a Referral by Nancy Ahern*, New Haven, File No. 2018-011B.
13. After investigation, the Commission finds that Complainant was asked to leave the Deep River Elementary School polling place by election officials, contrary to the provisions in General Statutes § 9-236 that permit the presence of the news media in the polls to observe the process during the election.
14. Because of advice from the SOTS, this situation was remedied, and Complainant was readmitted to the polling place as a member of the media. Complainant was excluded from the polls for approximately ten minutes in total.
15. Nevertheless, the Commission concludes the removal of a member of the media from a polling place at the November 3, 2020 election was inconsistent with the requirements of General Statutes § 9-236.
16. The Commission, as in this instance, views the transparency of the election day process of voting and the appropriate conduct of polling place officials throughout the election as crucial to public perception and trust that their votes will be fairly registered and tallied. Finally, the Commission recognizes the role that media presence at the polls during an election provides in assuring the fairness of the process and the reassuring public confidence in the same.
17. Additionally, the Commission remains cognizant of the exceptional and unique conditions necessitated by the Covid 19 pandemic pertaining to the operation of polling places and the administration of the November 3, 2020 election. The Commission recognizes that election officials and polling place officials rigorously worked to apply and implement CDC and SOTS Covid 19 safety guidelines for the protections of electors, officials and all individuals within the Deep River Elementary School polling place during the election.
18. The Commission finds that, during the pendency of this matter, Respondent tendered his resignation as Deep River Registrar of Voters. Further, the Commission finds Respondent's resignation from such office was effective July 31, 2021.<sup>1</sup>
19. In light of the aforementioned resignation from office by Respondent, the Commission has determined to take no further action regarding these alleged violations by

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<sup>1</sup> A copy of this July 31, 2021 resignation letter from Mr. Winchell to the Town of Deep River was provided to the Commission on August 2, 2021 by Mr. Winchell.

Respondent at this time. The Commission reserves the right to reconsider these alleged violations if, and at such time, that Respondent holds the office of Registrar of Voters in Connecticut in the future.

20. The Commission therefore dismisses these allegations without prejudice and reserves the right to reopen this complaint or otherwise initiate a matter against Respondent pursuant to General Statutes § 9-7b; should the exercise of such discretion be deemed appropriate under the circumstances.
21. The Commission, for the reasons detailed herein, without prejudice, takes no further action at this time pertaining to Complainant's allegations against Respondent under these narrow and specific facts and circumstances.

#### ORDER

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

The complaint is dismissed, with no further action and without prejudice.

Adopted this 15<sup>th</sup> day of September 2021, at Hartford, Connecticut.



Stephen T. Penny, Chairman  
By Order of the Commission