

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Alyse McEwen
Middletown

File No. 2021-053

FINDINGS & CONCLUSIONS

Complainant Alyse McEwen of Middletown filed this complaint on March 30, 2021 alleging that absentee ballot applications that included electioneering material had been distributed to individuals in connection with the commission election for the South Fire District in Middletown. After investigating the allegations raised in the complaint the Commission makes the following findings and conclusions:

1. Complainant McEwen, who is the executive assistant at the South Fire District in Middletown, filed this complaint alleging that unknown individuals had been distributing absentee ballot applications for an upcoming election of the fire commission and budget referendum and leaving the absentee ballot applications along with “campaign solicitations” on doors of residents in the fire district. The complaint alleged that two absentee ballot applications that the fire district had received included “campaign solicitation on the back side.”
2. Complainant stated that the fire district had consulted with the department’s attorney, who advised them that “the practice of modifying the [absentee ballot] application in a manner that appears to promote the success or defeat of a candidate is illegal” in that it violated General Statutes § 9-140 (a).
3. Complainant filed this complaint with the Commission related to the potential violation of the statutory provisions regulating the distribution of absentee ballot applications.
4. Several documents attached to the complaint reflected that a candidate for the fire commission had referred to his candidacy on the obverse side of the absentee ballot application. According to the documentation supplied by the complainant, absentee ballot applications were distributed to residents in the South Fire District that included references to a committee formed by John Kilian to support his candidacy for one of five commissioner spots on the district’s commission.
5. Kilian acknowledged that he had distributed the absentee ballot applications to residents in the district.

6. General Statutes § 9-7b (a)(1) limits the jurisdiction of the Commission to investigation of “alleged violations of any provision of the general statutes relating to any election or referendum.”¹
7. General Statutes § 9-1 (d) defines “Election” as “any electors meeting at which the electors choose public officials by use of voting tabulators or by paper ballots as provided in section 9-272.”
8. General Statutes § 9-1 (h) defines “Municipal Election” as “the regularly recurring election held in a municipality at which the electors of the municipality choose public officials of such municipality.”
9. General Statutes § 9-1 (n) defines “Referendum” as:
 - (1) a question or proposal which is submitted to a vote of the electors or voters of a municipality at any regular or special state or municipal election, as defined in this section, (2) a question or proposal which is submitted to a vote of the electors or voters, as the case may be, of a municipality at a meeting of such electors or voters, which meeting is not an election, as defined in subsection (d) of this section, and is not a town meeting, or (3) a question or proposal which is submitted to a vote of the electors or voters, as the case may be, of a municipality at a meeting of such electors or voters pursuant to section 7-7 or pursuant to charter or special act[.]
10. The South Fire District was incorporated in 1957 by a special act of the legislature.² Electors of the second taxing were entitled to vote for commissioners to serve on a five-member commission that controlled the assets and direction of the fire district. The commissioners, who serve staggered terms, are elected at the annual meeting of the fire district, which occurs on the first Monday of February of each year.³
11. The City of Middletown omits from its classification of “elected officials” commissioners of the South Fire District.⁴ The selection of Middletown’s “elected officials” occurs, by charter, on the Tuesday after the first Monday of November of the odd-numbered years for those officials whose terms are set to expire.⁵
12. The jurisdiction of the State Elections Enforcement Commission is limited to elections that occur under Connecticut’s general statutes, whereas the election of the commissioners of the South Fire District occur according to its act of incorporation.

¹ See General Statutes § 9-7b (a)(1) (outlining jurisdiction of Commission related to investigations).

² See Special Act 57-163 (creating South Fire District).

³ *Id.*

⁴ See Charter, City of Middletown, Chapter II, Section 2.

⁵ *Id.* at Chapter II, Section 4.

13. Although the bylaws of the South Fire District indicate that it will follow Connecticut's election and campaign finance statutes in its elections, that pronouncement does not expand the jurisdiction of the State Election Enforcement Commission to investigate or impose penalties for violations of those rules to an election that is not conducted under the auspices of Connecticut's general statutes.
14. Because the State Elections Enforcement Commission lacks jurisdiction to investigate this matter, the complaint will be dismissed.

ORDER

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

That this matter will be dismissed.

Adopted this 6th day of April, 2022 at Hartford, Connecticut.



Stephen Penny, Chairperson
By Order of the Commission