

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

In the Matter of a Complaint by Linda McDonough,  
New Haven

File No. 2021-211

**FINDINGS AND CONCLUSIONS**

Complainant, Linda McDonough, filed this Complaint with the Commission pursuant to Connecticut General Statutes § 9-7b. Complainant alleged that she requested to vote by the Integrated Voting System (“IVS”) voting machine at the November 2, 2021 City of New Haven municipal election at the Nathan Hale polling place and that she was not permitted to cast her vote in privacy. in violation of Connecticut Elections Law. Further, Complainant alleged that the municipal election official who assisted her did not administer the IVS voting process correctly. The following are the Commission's findings of fact and conclusions of law:

1. Complainant alleged that at the November 2, 2021 in New Haven she requested to vote by the IVS<sup>1</sup> voting machine and was lead to the machine by an elections official. Complainant proceeded to vote using the machine that allegedly did not include a privacy screen and that did not print her votes as cast on a ballot.
2. Complainant alleged that the election official insisted that the ballot was correct and that it would be run through the tabulator and her vote counted. Complainant believes she lost her right to vote and that election officials at her polling place were not properly trained in use of the IVS and that the machine was not properly prepared for use the November 2, 2021 election at the Nathan Hale School polling place.

Applicable Law

3. Section 9-242a-11 of the Regulations of Connecticut State Agencies sets out certain criteria for the organization of polling places and requires that "[a]t least one voting booth in each voting district shall be accessible to persons with disabilities[.]"

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<sup>1</sup> Alternative Voting System machines are designed to enable voters with visual disabilities to vote without compromising the secrecy of their ballot. In Connecticut the currently approved machine is the IVS Inspire Vote-By-Phone System & Inspire Ballot Marking System, which have been approved by the SOTS pursuant to § 9-241. For purposes of this disposition the system will be referred to as “IVS,” which was the system in use by the City of New Haven at all times relevant to this complaint.

4. General Statutes § 9-247 further requires that all tabulators, including IVS machines, be tested and functional by the open of polls and reads:

The registrars of voters shall, before the day of the election, cause test ballots to be inserted in each tabulator to ensure that each tabulator is prepared and read and cause each other voting system approved by the Secretary of the State for use in the election, *including, but not limited to, voting devices equipped for individuals with disabilities that comply with the provisions of the Help America Vote Act, P.L. 107-25, as amended from time to time*, to be put in order in every way and set and adjust the same so that it shall be ready for use in voting when delivered at the polling place. Such registrars of voters shall cause each voting system to be in order and set and adjusted, to be delivered at the polling place, together with all necessary furniture and appliances that go with the same, at the room where the election is to be held, and to be tested and operable not later than one hour prior to the opening of the polling place.

5. General Statutes § 9-236b provides, pertinent part:

(a) The Secretary of the State shall provide each municipality with sufficient quantities of a poster size copy, at least eighteen by twenty-four inches, of a Voter's Bill of Rights, which shall be posted conspicuously at each polling place. The text of the Voter's Bill of Rights shall be:

**“VOTER'S BILL OF RIGHTS**

Every registered voter in this state has the right to:

- (1) Inspect a sample ballot before voting;
- (2) Receive instructions concerning how to operate voting equipment, on sample voting equipment before voting;
- (3) Cast a ballot if the voter is in line when the polls are closing;
- (4) Ask for and receive assistance in voting, including assistance in languages other than English where required by federal or state law;
- (5) Vote free from coercion or intimidation by election officials or any other person;
- (6) Cast a ballot using voting equipment that accurately counts all votes;
- (7) Vote by provisional ballot if the individual registered to vote and the individual's name is not on the voter list;
- (8) Be informed of the process for restoring the individual's right to vote if the individual was incarcerated for a felony conviction; and

**(9) Vote independently and in privacy at a polling place, regardless of physical disability.**

If any of your rights have been violated, you have the right to file an official complaint with the State Elections Enforcement Commission at .... (toll-free telephone number) or the United States Department of Justice at .... (toll-free telephone number). In addition, before leaving the polling place you may notify the moderator of the violation.”

[Emphasis added.]

Commission Precedent

6. By way of background, the Commission has held that even if the machinery itself is functional, if the staff is unable to operate the voting device due to the staff's own lack of knowledge, then the requirements of § 9-247 are deemed not to have been met. *See In the Matter of a Referral by the Secretary of the State*, File No. 2016-043 (Alternative Voting System machine deemed inoperable due to staff member's inability to locate access code); *In the Matter of a Complaint by Melissa A. Rickard*, Windsor, File No. 2012-196 (Moderator unable to operate otherwise functional AVS due to lack of training: "A mechanically functioning voting system without a human operator that can use it is as good as having no machine at all. Cited in Secretary of State, supra).
7. More recently in *Complaint by Elizabeth Rival*, Berlin, File No. 2018-108, the Commission found the following regarding alternative voting system machines and privacy:
  - *A physical barrier, such as a rope or cones, should have been erected to protect the area behind the voter. Or, perhaps more simply, the table could have been turned so that the voter's back was to the wall.*
  - *Accordingly, while the evidence did not turn up any actual instance of a particular voter's privacy being compromised, the moderator should take care in future elections to adjust the AVS machine accordingly.*

Background

8. At all times relevant to the instant Complaint, the Complainant was a registered voter in the City of New Haven. Her regular polling place is located at the Nathan Hale School.
9. At all times relevant to the instant Complaint, Lisa Furino was the moderator at the Nathan Hale School polling place.

10. At all relevant times Marlene Napolitano and Shannel Evans are the Republican and Democratic Registrars of Voters in New Haven, respectively.<sup>2</sup>

#### Facts After Investigation

11. After investigation, the Commission finds a witness to the alleged events, other than the municipal election officials and Complainant was not identified.
12. The Moderator at Complainant's polling place at the Nathan Hale School was Lisa Furino.
13. The Office of Corporation Counsel for the City of New Haven provided a detailed response to this complaint and investigation.
14. The City of New Haven indicated that a mandatory training session for all moderators at the November 2, 2021 election was held a week prior to the election on October 28, 2021. Respondents asserted through Corporation Counsel:

*In November, 2021 the in-person training meeting for moderators with the Registrar of Voters occurred on the Thursday prior to Election Day (October 28, 2021). All moderators were required to attend. At this meeting, the Registrar of Voters demonstrated how moderators were to unpack and operate the IVS machines at their polling locations. This involved a physical demonstration in which Registrar Shannel Evans actually unpacked the machine before their eyes. In a process similar to flight attendants demonstrating safety features on an airplane, Ms. Evans demonstratively stepped through the process of IVS voting and the operation of the machine, including a physical demonstration of unpacking and repacking the IVS machine, wiring setup, proper location for the IVS machine, opening the laptop computer, testing the machine and entering passcodes, the use of headphones, the process of using the machine to vote, and how to feed a paper ballot into the printer. After the demonstration, the moderators were given the opportunity to interact with the IVS machine themselves. Ms. Evans also made herself available to answer specific questions both after the presentation and in the following days at virtually any hour. Ms Napolitano was also available to answer questions in the days prior to the election. ...*

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<sup>2</sup> Ms. Napolitano and Ms. Evans were identified as Respondents in this matter by the Commission.

*It is and has been the policy of the Registrar of Voters that an instruction sheet with instructions on how to feed ballots into the printer attached to the IVS machine be included in the packing of each IVS machine. A copy of these instructions is enclosed and labeled Exhibit C.*

15. Further, Corporation Counsel explained that the moderator was fully trained by the Registrars of Voters, and that Respondent Evans specifically remembered her:

*Shannel Evans specifically recalls that the moderator [Lisa Furino] from Nathan Hale School, the site that is the subject of the instant Complaint, was present at the IVS demonstration meeting on Thursday, October 28, 2021. (See Exhibit B, sign-in sheet from moderator's demonstration meeting on October 28, 2021. Ward 18 (Lisa) was the polling location that is the subject of this Complaint.)*

*It is and has been the policy of the Registrar of Voters that an instruction sheet with instructions on how to feed ballots into the printer attached to the IVS machine be included in the packing of each IVS machine. A copy of these instructions is enclosed and labeled Exhibit C.*

*Documents in the response also indicate that the Complainant was marked off as having voted at her polling place on the checkers' list.*

16. Documents provided by the City of New Haven pertaining to the preparation and set-up of polling places, as well as records kept by the Nathan Hale School polling place officials from the November 2, 2021 election, indicate that the set-up and operation of that polling place was consistent with statutory prescriptions and the published guidelines of the SOTS.
17. Documents provided by the City of New Haven in response to this complaint and investigation indicate that the Complainant was marked off on the checkers' list as having voted at the Nathan Hale School polling place at the November 2, 2021 municipal election.
18. The documents provided by Respondents included the tabulation and results from the closing of the polls which confirmed that the votes counted at the Nathan Hale School polling place matched the number of electors checked-off as having voted on November 2, 2021 municipal election in New Haven.

## Legal Analysis

### *Failure to Train Election Officials*

19. The Commission concludes that there was sufficient facts, after investigation, to conclude that City of New Haven election officials were trained in the set-up and operation<sup>3</sup> of IVS machines prior to the November 2, 2021 municipal election pursuant to General Statutes § 9-347.
20. More specifically, the investigation determined that that the Moderator Lisa Furino who served at the Nathan Hale School polling place attended training sessions led by Ms. Evans and Ms. Napolitano prior to the election pursuant to statutory requirements and those of the SOTS regarding the use of IVS machines.
21. The Commission dismisses the allegation regarding a failure to train election officials at the Nathan Hale Polling place in the operation of the IVS voting machine as it was not supported by the facts after investigation and did not support the conclusion that General Statutes § 9-247 was violated.

## Complainant's Allegations

### *Lack of Privacy Screen for Voting by IVS*

22. Complainant alleges that there was no privacy screen for use of the IVS voting machine.
23. The Commission finds there is a discrepancy between Complainant's assertions regarding a privacy screen and Respondents' explanation and documentation of the polling place set-up at Complainant's polling place on November 2, 2021.
24. Further, the Commission finds a lack of evidence that the polling place set-up, and its inclusion of an IVS voting station, did not satisfy the requirements of General Statutes § 9-236b (a) (9) as it pertains an elector's rights to privacy and independent voting.
25. The Commission therefore dismisses the allegation regarding a lack of privacy in voting as alleged by Complainant, as not supported by the facts after investigation.

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<sup>3</sup> The Commission has held that even if the machinery itself is functional, if the staff is unable to operate the voting device due to the staff's own lack of knowledge, then the requirements of § 9-247 are deemed not to have been met. *See In the Matter of a Referral by the Secretary of the State*, File No. 2016-043 (Alternative Voting System machine deemed inoperable due to staff member's inability to locate access code); *In the Matter of a Complaint by Melissa A. Rickard, Windsor*, File No. 2012-196 (Moderator unable to operate otherwise functional AVS due to lack of training: "A mechanically functioning voting system without a human operator that can use it is as good as having no machine at all. Cited in Secretary of State, *supra*).

*Print Out of Incorrect IVS Ballot*

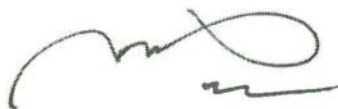
26. Complainant alleges that the IVS voting machined did not print out a correct ballot form.
27. The Commission finds that the testimony and documentation regarding the IVS system and the preparation and training regarding the same prior to the November 2, 2021 election supports the conclusion that it was done so consistent with published statutory standards as well as guidance and advice of the SOTS.
28. The Commission further finds that its finding is consistent with the election records from the tally and reconciliation of the number of votes cast at the Nathan Hale Polling place at the election and the number of individuals as having been checked-off as voting there on November 2, 2021.
29. The Commission concludes therefore Complainant's allegations that an incorrect ballot was used or produced by the IVS voting system in violation of General Statutes § 9-247, was not supported by the evidence after investigation and the Commission therefore dismisses this allegation.
30. The Commission determines, under these narrow and specific circumstances, that Complainant's allegations are dismissed as they were not supported by the facts and the law and that this matter should therefore be dismissed.

**ORDER**

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

This matter is dismissed.

Adopted this 10<sup>th</sup> day of May, 2022 at Hartford, Connecticut.



Stephen T. Penny, Chairman  
By Order of the Commission