

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Christine M. Baptiste-Perez
and Erika Castillo, Bridgeport

File No. 2021-212

AGREEMENT CONTAINING CONSENT ORDER

This Agreement by and between Michelle Small, City of Bridgeport, State of Connecticut, hereinafter referred to as “Respondent,” and the undersigned authorized representative of the State Elections Enforcement Commission, is entered into in accordance with Connecticut General Statutes § 4-177 (c) and Regulations of Connecticut State Agencies § 9-7b-54. In accordance herewith, the parties agree that:

1. Complainants alleged that Respondent, as a candidate on the ballot, solicited a vote from an individual who utilized “curbside voting”¹ to cast a ballot at the November 2, 2021 election in Bridgeport.
2. Specifically, Complainants alleged that Respondent, as a candidate for City Council, solicited votes for herself, another candidate and on behalf of the Working Families Party, from individuals while they utilized curbside voting at the John F. Kenndey (“JFK”) School polling place in Bridgeport at the November 2, 2021 municipal election.
3. Additionally, Complainants alleged that Respondent offered to retrieve and cast ballots for those same individuals requesting to use curbside voting and that Respondent entered within the 75 foot zone of the JFK School polling place when assisting such individuals at the election.
4. By way of background, Respondent was the Democratic candidate for the City of Bridgeport's City Council seat for the 138th District at the November 2, 2021 municipal election.

¹ “Curbside Voting” – According to the Office of the Secretary of the State advises that if an individual arrives at the polling place but is unable to access it due to a temporary incapacity, they may request that a ballot be brought to them. The Registrars of Voters (or their assistants) from both parties must then bring that individual a ballot and a privacy sleeve. That individual must show the proper identification and may then mark the ballot. The ballot must be marked in front of the election officials but not in a way that will violate your right to vote in privacy. The individual should then place the ballot in a privacy sleeve. The election officials will then deliver the ballot in the privacy sleeve to the tabulator for counting. At no time should the right to vote in privacy be violated. See General Statutes § 9-261 and *Moderator's Handbook – July, 2013 at page 32 (ED-701 (Rev. 7/13) – CT Secretary of the State)*, internal citations omitted.

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

(a) On the day of any primary, referendum or election, no person shall solicit on behalf of or in opposition to the candidacy of another or himself or on behalf of or in opposition to any question being submitted at the election or referendum, or loiter or peddle or offer any advertising matter, ballot or circular to another person within a radius of seventy-five feet of any outside entrance in use as an entry to any polling place or in any corridor, passageway or other approach leading from any such outside entrance to such polling place or in any room opening upon any such corridor, passageway or approach. ... The moderator shall evict any person who in any way interferes with the orderly process of voting.

...

6. The Respondent provided a detailed response to this complaint and investigation, as excerpted below:

...I was a candidate for the 138th City Council ... The 2021 election cycle was the very first time I ran for municipal office

I had assisted two previous curbside voters by requesting their license and walking into the JFK Precinct to inform the moderator/staff that there was a curbside voter. On neither occasion did I attempt to handle or complete the ballot on behalf of either voter as falsely alleged by the complainants. I was neither reprimanded or directed to cease my efforts by the Moderator, Deputy Moderator, or staff. In fact, all those I spoke with were quite appreciative of my efforts.

In Response to [the allegation]... there was no elections violation committed by requesting a voter provide their license with the voter(s) willingly and happily providing it at my request.

In response to [the allegation] ... I never attempted to retrieve or cast a ballot on behalf of any curbside voter.

In response to [the allegation] ... once [the] Deputy Moderator ... told me I could no longer enter the polling location to assist a curbside voter, I ceased to do so.

I crossed the 75 ft. line on two previous occasions on November 2, 2021, to provide the Moderator, Deputy Moderator and/or staff with the license of two separate and distinct voters to inform them a curbside voter needed service. At no time did I attempt to retrieve any voters ballot which can easily be confirmed by staff.

I did enter the JFK Precinct on two previous occasions that day to notify staff that a voter needed assistance at Curbside Voting and provided the voters license to staff to make it easier for them and to expedite service for the voters. At no time did I try to take possession of or complete a ballot on behalf of any voter.

In fact, on November 2, 2021, ... the Moderator came out to thank me for trying to help as they did not have enough staff to station someone outside the JFK Precinct from 6:00 a.m. to 8:00 p.m. just to monitor Curbside Voting.

Facts After Investigation

7. Upon investigation, it was determined that Respondent assisted individuals at the JFK School polling place with curbside voting by making election officials aware of their requests to do so at the November 2, 2021 municipal election in Bridgeport. It is further found that such individuals were assisted with curbside voting by two polling place workers who together brought ballots to such individuals.
8. Respondent denies that she brought any ballots to any individuals who participated in curbside voting at the JFK Elementary School polling place on November 2, 2021 election in Bridgeport, or otherwise offered to “cast” ballots for such individuals.
9. Upon investigation, poll workers asserted that they did not witness Respondent handle the ballots of individuals who participated in curbside voting at that JFK School polling place.

10. After investigation, it was determined and Respondent admits that she entered the polling place at the JFK Elementary School on November 2, 2021 election twice to assist others with curbside voting and other than for purposes of casting her own ballot.
11. The Commission finds that the Respondent cooperated with the polling place official who explained that she could not enter the polls to assist individuals with curbside voting. Further, the Commission finds that witnesses corroborated Respondent's assertion that she ceased to enter the polling place after being instructed by the polling place official at JFK School.

Legal Analysis and Conclusions

12. After investigation, the Commission finds a lack of evidence that Respondent voted any individual's ballot, solicited a vote from individuals exercising curbside voting on behalf of herself or any other candidate or party, or that she possessed ballots of other individuals.
13. The Commission therefore dismisses allegations pertaining to Respondent's soliciting votes, offering to vote for individuals and otherwise handling the ballots of those utilizing curbside voting at the JFK Elementary polling place on November 2, 2021, as they were not supported by the facts after investigation.
14. Respondent does not dispute that she twice entered the JFK School polling place on the morning of the November 2, 2021 municipal election in Bridgeport, before being instructed regarding the prohibition from doing so by a poll worker.
15. The Commission concludes therefore that Respondent on two occasions was within the 75 foot zone at the JFK School polling place as proscribed by General Statutes § 9-236 (a) and in violation of that section.
16. The Respondent admits all jurisdictional facts and concurs that this Agreement and Order shall have the same force and effect as a final decision and Order entered after a full hearing and shall become final when adopted by the Commission. The Respondent shall receive a copy hereof as provided in Section 9-7b-56 of the Regulations of Connecticut State Agencies.
17. The Respondent waives:
 - a. Any further procedural steps;

- b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law, separately stated; and
- c. All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered into pursuant to this Agreement.


18. It is understood and agreed that this Agreement will be submitted to the Commission for consideration at its next meeting and, if the Commission does not accept it, it is withdrawn and may not be used as an admission by either of the parties in any subsequent hearing, if the same becomes necessary.

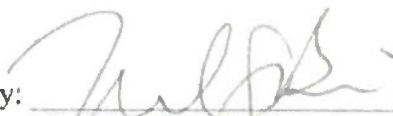
ORDER

IT IS HEREBY ORDERED that the Respondent shall henceforth strictly comply with General Statutes § 9-236 (a).

The Respondent

For the State of Connecticut


By: 
Michelle Small
10 Mencil Circle
Bridgeport, Connecticut

By: 
Michael J. Brandi, Esq.
Executive Director and General Counsel
And Authorized Representative of the
State Elections Enforcement Commission
55 Farmington Avenue, 8th Floor
Hartford, Connecticut

Dated: 11-1-22

Dated: 11/14/22

Adopted this 16th day of NOV 2022 at Hartford, Connecticut by vote of the Commission.


Stephen T. Penny, Chairman
By Order of the Commission