

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

In the Matter of a Referral by the Secretary of the State

File No. 2019-010

**FINDINGS AND CONCLUSIONS**

The Secretary of the State (the “Secretary”) submitted this Referral and alleged that during the November 6, 2018 General Election, Hamden Registrars of Voters Rose Mentone and Tony Esposito failed to follow the Secretary’s instructions regarding their Election Day Registration location.<sup>1</sup>

**Law**

1. General Statutes § 9-19j [Rev. to July 31, 2020] enumerates the rules regarding registering as an elector and voting on Election Day and reads:

(a) As used in this subsection and subsections (b) to (i), inclusive, of this section, “election day” means the day on which a regular election, as defined in section 9-1, is held.

(b) Notwithstanding the provisions of this chapter, a person who (1) is (A) not an elector, or (B) an elector registered in a municipality who wishes to change his or her registration to another municipality pursuant to the provisions of subdivision (2) of subsection (e) of this section, and (2) meets the eligibility requirements under subsection (a) of section 9-12, may apply for admission as an elector on election day pursuant to the provisions of subsections (a) to (i), inclusive, of this section.

(c) (1) The registrars of voters shall designate a location for the completion and processing of election day registration applications

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<sup>1</sup> The following are the Commission’s findings and conclusions based on those portions of the Complainant’s statement of complaint which the Commission could reasonably construe as alleging facts amounting to a specific violation of those laws within the Commission’s jurisdiction. Any statements within the Complaint not addressed herein either did not specifically allege a violation or alleged facts which if proven true would not have amounted to a violation within the Commission’s jurisdiction.

on election day, provided the registrars of voters have access to the state-wide centralized voter registration system from such location.

(2) The registrars of voters may appoint one or more election officials to serve at such location and may delegate to such election officials any of the responsibilities assigned to the registrars of voters. The registrars of voters shall supervise such election officials and train such election officials to be election day registration election officials.

(d) Any person applying to register on election day under the provisions of subsections (a) to (i), inclusive, of this section shall make application in accordance with the provisions of section 9-20, provided (1) on election day, the applicant shall appear in person at the location designated by the registrars of voters for election day registration, (2) an applicant who is a student enrolled at an institution of higher education may submit a current photo identification card issued by said institution in lieu of the identification required by section 9-20, and (3) the applicant shall declare under oath that the applicant has not previously voted in the election. If the information that the applicant is required to provide under section 9-20 and subsections (a) to (i), inclusive, of this section does not include proof of the applicant's residential address, the applicant shall also submit identification that shows the applicant's bona fide residence address, including, but not limited to, a learner's permit issued under section 14-36 or a utility bill that has the applicant's name and current address and that has a due date that is not later than thirty days after the election or, in the case of a student enrolled at an institution of higher education, a registration or fee statement from such institution that has the applicant's name and current address.

(e) If the registrars of voters determine that an applicant satisfies the application requirements set forth in subsection (d) of this section, the registrars of voters shall check the state-wide centralized voter registration system before admitting such applicant as an elector.

(1) If the registrars of voters determine that the applicant is not already an elector, the registrars of voters shall admit the applicant

as an elector and the privileges of an elector shall attach immediately.

(2) If the registrars of voters determine that such applicant is an elector in another municipality and such applicant states that he or she wants to change the municipality in which the applicant is an elector, notwithstanding the provisions of section 9-21, the registrars of voters of the municipality in which such elector now seeks to register shall immediately notify the registrars of voters in such other municipality that such elector is changing the municipality in which the applicant is an elector. The registrars of voters in such other municipality shall notify the election officials in such municipality to remove such elector from the official voter list of such municipality. Such election officials shall cross through the elector's name on such official voter list and mark "off" next to such elector's name on such official voter list.

(A) If it is reported that such applicant already voted in such other municipality, the registrars of voters of such other municipality shall immediately notify the registrars of voters of the municipality in which such elector now seeks to register. In such event, such elector shall not receive an election day registration ballot from the registrars of voters of the municipality in which such elector now seeks to register. For any such elector, the election day registration process shall cease in the municipality in which such elector now seeks to register and such matter shall be reviewed by the registrars of voters in the municipality in which such elector now seeks to register. After completion of such review, if a resolution of the matter can not be made, such matter shall be reported to the State Elections Enforcement Commission which shall conduct an investigation of the matter.

(B) If there is no such report that such applicant already voted in the other municipality, the registrars of voters of the municipality in which the applicant seeks to register shall admit the applicant as an elector and the privileges of an elector shall attach immediately.

(f) If the applicant is admitted as an elector, the registrars of voters shall provide the elector with an election day registration ballot and election day registration envelope and shall make a record of such

issuance. The elector shall complete an affirmation imprinted upon the back of the envelope for an election day registration ballot and shall declare under oath that the applicant has not previously voted in the election. The affirmation shall be in the form substantially as follows and signed by the voter:

AFFIRMATION: I, the undersigned, do hereby state, under penalty of false statement, (perjury) that:

1. I am the person admitted here as an elector in the town indicated.
2. I am eligible to vote in the election indicated for today in the town indicated.
3. The information on my voter registration card is correct and complete.
4. I reside at the address that I have given to the registrars of voters.
5. If previously registered at another location, I have provided such address to the registrars of voters and hereby request cancellation of such prior registration.
6. I have not voted in person or by absentee ballot and I will not vote otherwise than by this ballot at this election.
7. I completed an application for an election day registration ballot and received an election day registration ballot.

.... (Signature of voter)

(g) The elector shall forthwith mark the election day registration ballot in the presence of the registrars of voters in such a manner that the registrars of voters shall not know how the election day registration ballot is marked. The elector shall place the election day registration ballot in the election day registration ballot envelope provided, and deposit such envelope in a secured election day registration ballot depository receptacle. At the time designated by the registrars of voters and noticed to election officials, the registrars of voters shall transport such receptacle containing the election day

registration ballots to the area, either district or central, where absentee ballots are counted and such election day registration ballots shall be counted by the election officials present at such location. A section of the head moderator's return shall show the number of election day registration ballots received from electors. The registrars of voters shall seal a copy of the vote tally for election day registration ballots in a depository envelope with the election day registration ballots and store such election day registration depository envelope with the other election results materials. The election day registration depository envelope shall be preserved by the registrars of voters for the period of time required to preserve counted ballots for elections.

(h) The provisions of the general statutes and regulations concerning procedures relating to the custody, control and counting of absentee ballots shall apply as nearly as possible, to the custody, control and counting of election day registration ballots under subsections (a) to (i), inclusive, of this section.

(i) After the acceptance of an election day registration, the registrars of voters shall forthwith send a registration confirmation notice to the residential address of each applicant who is admitted as an elector on election day under subsections (a) to (i), inclusive, of this section. Such confirmation shall be sent by first class mail with instructions on the envelope that it be returned if not deliverable at the address shown on the envelope. If a confirmation notice is returned undelivered, the registrars shall forthwith take the necessary action in accordance with section 9-35 or 9-43, as applicable, notwithstanding the May first deadline in section 9-35.

(j) No person shall solicit in behalf of or in opposition to the candidacy of another or himself or herself or in behalf of or in opposition to any question being submitted at the election, 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 the registrars' of voters designated location for election day registration balloting or in any corridor, passageway or other approach leading from any such outside entrance to such registrars' of voters designated location or in any room opening upon any such corridor, passageway or approach.

## **Background**

2. The Respondents here are Rose Mentone, the Hamden Democratic Registrar of Voters, and Anthony Esposito, the Hamden Republican Registrar of Voters, who were the registrars during all times relevant to the instant matter.
3. The events of this matter concern the November 6, 2018 General Election in which all statewide offices, the General Assembly, as well as other local races were on the ballot.
4. "Election Day Registration" ("EDR") was enacted by the General Assembly in the 2012 session and applied to all general elections from 2013 forward. Three municipal elections and two state elections were held prior to the 2018 General Election in which EDR was required to be available in every town between the hours of voting, 6am and 8pm.
5. The Office of the Secretary of the State issued instructions regarding EDR in a memorandum entitled "Implementation of Election Day Registration," dated October 4, 2016. At the time of the November 6, 2018 General Election, such memorandum was not superseded or updated by any subsequent regulation or written advice.

## **Allegation**

6. The Secretary filed a memorandum with her referral entitled "Allegations of Misconduct during the November 6, 2018 General Election" which included a number of different relatively short allegations concerning activity in towns across the state. The Commission voted to treat each allegation as a separate matter.
7. In this instance, the allegation concerned the set up and implementation of EDR in the Town of Hamden during the November 6, 2018 General Election.
8. The Secretary alleged in full, as follows:

Failure to properly staff the Election Day Registration properly within the Town of Hamden. Although this Office has issued an Election Day Registration manual pursuant to CGS § 9-3, the local registrars of voters failed to follow even the basic instructions and staffing recommendations located within that document.

## **Investigation**

9. The “Election Day Registration manual” referred to in the Secretary’s Referral is the “Implementation of Election Day Registration” memorandum of October 4, 2016 referred to above and is a comprehensive document, 11 pages in length, including 7 pages of forms.
10. The Memorandum enumerates the requirements for conducting EDR as prescribed in General Statutes § 9-19j and also enumerates a list of 14 recommendations for best practices related to the staffing and layout of an EDR location. The recommendations include but are not limited to recommended formulas for determining appropriate staffing levels and best practices for conducting EDR, such as assigning a staff member to poll individuals on line to make sure that they are not registered already in another jurisdiction before they begin the EDR process.
11. Commission investigators contacted the Office of the Secretary of the State and requested a more specific enumeration of which requirements and/or recommendations may have been ignored as well as an enumeration of any instances in which such alleged activity led to the disenfranchisement of any particular potential voter.
12. The Office of the Secretary of the State indicated in their response to Commission inquiries that there were calls into their office regarding long lines at the Hamden EDR location, but they were unable to provide Commission investigators with any specific instances in which the Hamden EDR location failed to meet either the aforementioned requirements and/or recommendations.

## *Response*

13. The Respondent Registrars were prompt with their response and cooperative in this matter.
14. Commission investigators inquired into the following areas:
  - a. The Location and Set Up of the EDR Location
  - b. The Levels of Staffing
  - c. Training and Experience of the Staff
  - d. The Historical EDR Numbers for the Town
  - e. Any Prior Advice from SEEC or SOTS regarding EDR in Hamden

15. Regarding the location and set up of the EDR location, the Respondent Registrars replied as follows:

EDR took place in the Office of the Registrars of Voters, the adjacent hallway, and adjacent conference room on the main floor of Hamden Government Center, 2750 Dixwell Ave., Hamden, CT. The ROV Office is the first office from the main entrance on the main floor. A staff worker is stationed by the entrance with a laptop to screen persons to determine if they are a registered voter or not. If already registered, they are advised of the proper Polling Place and directed to go their and vote. If not registered, they are directed to the pole-stationed *[sic]* queue leading to the ROV Office. Once the applicant reaches the counter within the office they are processed by the staff worker. Processing requires the applicant to complete a voter application form that is then used by the staff to verify on [CVRS] if the person is registered or not. If not, the information is entered into [CVRS] and a registration card is printed. At that time the voter is duly registered and issued a ballot and a security envelope for it. The information on the envelope is entered into the log and the voter is directed to the conference room where the voter uses any of the 6 booths to complete their ballot, seal it in the envelope, and deposit it in the ballot box as directed by the staff worker positioned by the box.

16. Regarding the location and set up of the EDR location, the Respondent Registrars replied as follows:

Our office anticipated between 400 and 500 EDR voters. Based on the state manual's recommendation of one person per 100 anticipated voters, our office hired three staff people to complement our regular staff of five, making eight staff available in total.

17. Regarding the historical numbers (including the final 2018 number), the Respondent Registrars reported the following:

<b>2013</b>	36
<b>2014</b>	244
<b>2015</b>	22
<b>2016</b>	645

2017	26
2018	382

18. Regarding prior advice, the Respondent Registrars replied as follows:

After the first election with EDR SOTS clarified the process in that no person applying to register and vote using the procedure is actually a voter until their information is entered into CNVRS and a registration card printed, and until that process was complete they could not be issued a ballot. That procedure was strictly followed in all subsequent EDR operations. The SOTS also emphasized that this registration ends at precisely 8:00 PM, and that CNVRS will shut down at that time and stop accepting applications. All people in line, who had not had their information entered into CNVRS and had a registration card printed, would have to be sent away. A large sign, in both English and Spanish, to that effect was posted inside and out side of the office. Three times between 7:00 PM and 8:00 PM people queuing up to the counter and outside the door were advised of this. The 8:00 PM cutoff was strictly adhered to.

#### Analysis

19. The analysis here is straightforward. On the facts there were no specific allegations and/or evidence provided by the Secretary upon which liability might have been found in this matter.
20. Moreover, the inquiry by the Commission did not reveal any new actionable information related to how the Hamden Registrars of Voters implemented Election Day Registration for the November 6, 2018 General Election.
21. Further, no new potential issues were brought to the Commission's attention in the 2019 and 2020 cycles, either through the complaint and referral process and/or its Election Day Hotline.
22. In neither instance did any information come to the Commission demonstrating a need to further investigate the EDR process in Hamden.

23. The Commission also takes note that General Statutes § 9-19j was amended by Public Act 20-3 of the July Special Session, effective July 31, 2020. The changes included, but were not limited to, codifying some of the recommendations in the October 4, 2016 memorandum by the Secretary, and adding a requirement that all registrars seek certification from the Secretary for their EDR plans.
24. Considering the aforesaid, this matter should be dismissed.

ORDER

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

That the matter is dismissed.

Adopted this 16<sup>th</sup> day of June, 2017 at Hartford, Connecticut.



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Stephen T. Penny, Chairperson  
By Order of the Commission