

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

In the Matter of a Complaint by Christina Fagerstal  
and Lisa Hannich, New Canaan

File No. 2022-008

**FINDINGS AND CONCLUSIONS**

Complainants, Christina Fagerstal and Lisa Hannich, made this complaint pursuant to General Statutes § 9-7b. Complainant alleged that at the November 2, 2022 New Canaan municipal election that election officials within the polling place were giving out misleading information to electors. After investigating the allegations raised in the complaint the Commission makes the following findings and conclusions:

1. Complainants alleged that Alison B. Totaro, while a polling place official at a New Canaan Republican Town Committee primary was giving incorrect instructions regarding how many candidates an elector could choose at primary
2. More specifically, Complainants alleged that  
*The Respondent was a poll worker and on at least 5 occasions used her position to intentionally influence the vote by telling voter that as a "Republican they were only to vote for 4 candidates" when in fact a voter had the opportunity to vote for up to 6 candidates regardless of their party affiliation.*
3. Complainants allege that Respondent did so within the polling place during the voting and that while electors could actually choose 6 candidates, Respondent was instructing them that they could only choose 4 candidates.
4. 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.

5. General Statutes § 9-235 details who may be appointed as an unofficial checker that may enter a polling place pursuant to General Statutes § 9-236 (c) (4). Candidates for office are specifically omitted from the list of those permitted to serve as unofficial checkers. General Statutes § 9-235 (c) (“No candidate for an office in an election may be an unofficial checker at such election.”).
6. General Statutes § 9-355, provides:

Any person who, without reasonable cause, neglects to perform any of the duties required of him by the laws relating to elections or primaries and for which neglect no other punishment is provided, and any person who is guilty of fraud in the performance of any such duty, and any person who makes any unlawful alteration in any list required by law, shall be fined not more than three hundred dollars or be imprisoned not more than one year or be both fined and imprisoned. Any official who is convicted of fraud in the performance of any duty imposed upon him by any law relating to the registration or admission of electors or to the conduct of any election shall be disfranchised. Any public officer or any election official upon whom any duty is imposed by part I of chapter 147 and sections 9-308 to 9-311, inclusive, who wilfully omits or neglects to perform any such duty or does any act prohibited therein for which punishment is not otherwise provided shall be guilty of a class E felony.
7. General Statutes § 9-363, provides:

Any person who, with intent to defraud any elector of his or her vote or cause any elector to lose his or her vote or any part thereof, gives in any way, or prints, writes or circulates, or causes to be written, printed or circulated, any improper, false, misleading or incorrect instructions or advice or suggestions as to the manner of voting on any tabulator, the following of which or any part of which would cause any elector to lose his or her vote or any part thereof, or would cause any elector to fail in whole or in part to register or record the same on the tabulator for the candidates of his or her choice, shall be guilty of a class D felony.

Commission Application of General Statutes § 9-236

8. Individuals who violate General Statutes § 9-236 prohibition against electioneering within a polling place are subject to civil penalties as well as potential criminal prosecution. See General Statutes § 9-7b (authorizing Commission to impose civil

penalties of as much as \$2,000 per violation of provisions in part V of Chapter 146, which includes General Statutes § 9-236).

9. Prohibiting candidate interference with the process of elections is a matter the Commission has taken seriously. See *In the Matter of a Complaint by Linda Szyrkowicz, Middletown, File No. 2016-093A; In the Matter of a Referral by Nancy Ahern, 2018-011A*. However, when a Respondent is a first time offender and the violation of General Statutes § 9-236 is not for the purpose of influencing or interfering with the process of voting, the Commission has declined to assess a civil penalty. *Id.*

10. After investigation, the Commission finds that Ms. Totaro provided a written response to the complaint and denied the allegations and specific facts as represented by Complainants in their complaint. Ms. Totaro asserted:

*One thing to note is that I was a paid town employee and not a Republican representative as I keep reading. My friend who happens to be a lawyer thought today's article may point to the town directly which would include members of the DTC. However, the complaints/statements against me are false. These women clearly didn't think this through. The DTC treasurer Liz Orteig is in Europe for 2 weeks. She has repeatedly defended me. There is more to this story including rumors of Kathleen Corbett being behind all of it with her deep pockets and political aspirations. Also, note that these women have had issues with me for 7 years and this is just another attempt to try to shut me up. There were false allegations against Selectmen Kevin Moynihan in regards to election mailers that he has had to defend himself. You can look that up. Same group of women/203 Action PAC. All of this stems from the Board of Ed election and not the other offices up for re-election this past November. Keep that in mind, as well.*

11. Further the Commission finds that a witness affidavit provided by Complainants in support of their allegations indicated the following:

*Julia Stewart came to the Democrats' table outside the high school. It was during my shift, 10:00-12:30. She said that a "greeter" on the right side, by the large display showing the ballot, was telling people they could vote for 6 people for BOE (all openings), but they only had to or should vote for 4. I went in, and, after listening to the greeter on the left, Jill Ernst (U), to see what she was saying (which was ok by that time, but apparently, she had said something similar earlier) I moved in to listen to Alison Totaro who was in fact telling voters they "only had to vote for 4 candidates".*

*Debbie (Lyons?R) went over to her, came back, and told me everything was ok now.*

The Commission finds that an additional witness affidavit indicated:

When I walked through the doors into the election room/gym I heard a tall woman with a southern accent (I was able to identify as Allison Totaro) instruct the individual in front of me that *"they could vote for 6, but could also vote for only 4"*.

12. The Commission finds that Ms. Totaro was identified in two witness affidavits to have instructed individuals entering the polling place that they could choose six candidates but could also vote for four. The Commission finds that Ms. Totaro in response to this complaint and investigation denies this allegation and description of the incidents.
13. The Commission finds that, assuming the facts to be true that Ms. Totaro informed individuals entering the polling place at the November 2, 2022 election in New Canaan could vote for four or six members of the board of education, does not rise to either the level of electioneering or qualifies as misleading instructions in this instance.
14. While the Commission would caution Ms. Totaro, or any Election Official, to exercise care in answering questions or explaining the process of voting or the ballot to electors to avoid any partisan or misleading instructions, it also finds that the polling place officials in this instance appeared to correct the behavior by between 10:00 and 12:00 based on receiving information about it.
15. The Commission finds in this instance that the facts are insufficient to conclude election law violations and that the allegations are not supported by conclusions of law to establish a violation by Ms. Totaro, even when assuming her conduct to be as described by Complainants and by witnesses. The Commission therefore dismisses these allegations.
16. The Commission, for the reasons detailed herein, dismisses this complaint as the allegations were not supported by the fact or the law after investigation.

**ORDER**

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

The complaint is dismissed.

Adopted this 18<sup>th</sup> day of May 2022, at Hartford, Connecticut.



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Stephen T. Penny, Chairman  
By Order of the Commission