

STATE OF NEW HAMPSHIRE

DEPARTMENT OF JUSTICE

SENATE COMMITTEE ON ELECTION LAW AND MUNICIPAL AFFAIRS

HOUSE COMMITTEE ON ELECTION LAW

Election Law Complaint Status Report

Submitted Pursuant to RSA 7:6-c

Reporting Period January 1, 2021, to June 30, 2021

Issued September 1, 2022

Prepared by:

John M. Formella
Attorney General

Myles Matteson
Deputy General Counsel
Election Law Unit
Attorney General's Office
33 Capitol Street
Concord, NH 03301
(603) 271-3650

INTRODUCTION

Part I, Article 11 of the New Hampshire Constitution provides, in part, that “[a]ll elections are to be free, and every inhabitant of the State of 18 years of age and upwards shall have an equal right to vote in any election.” To safeguard this constitutional provision, and pursuant to RSA 7:6-c, the Legislature has designated the Attorney General to enforce all election laws in New Hampshire. In 2017, the Attorney General established a free-standing Election Law Unit. The Unit is now staffed by two full-time attorneys, Deputy General Counsel Myles Matteson and Attorney Matt Conley, one full-time elections investigator, Chief Investigator Richard Tracy, and one full-time investigative paralegal, Jill Tekin.

Pursuant to RSA 7:6-c, II, (a), the Attorney General hereby submits to the New Hampshire House of Representatives and the Senate this report on the status of all complaints of alleged violations of election laws received from January 1, 2021, to June 30, 2021.¹ This report is divided into three parts. Section I, pursuant to RSA 7:6-c, II (b), includes a summary of complaints received from January 1, 2021, to June 30, 2021, and a categorization of complaints received by type of complaint and month received as required by RSA 7:6-c, II (b). Section II lists all complaints received prior to this reporting period that remain open as of the publication date of this report. Finally, Section III contains an index of matters that have been closed during the reporting period or subsequently, and pursuant to RSA 7:6-c, II (c), attached hereto are the closure letters, settlement agreements, cease-and-desist orders, and other official communications that describe the results of each complaint that has been investigated or an explanation of why the complaint was closed without an investigation.

¹ The Attorney General is submitting three status reports within a week, covering the period from July 2020 to December 2021. All three reports are written to reflect the status of cases as of August 26, 2022,. This means, for example, that a matter opened 2021 and closed in 2022, will be listed as “Closed” in the report covering the applicable period in 2021.

I.

SUMMARY OF COMPLAINTS RECEIVED FROM January 1, 2021, to June 30, 2021

Complaint Against	Complainant	Date of complaint	Allegations	Status	Bates No.
Alleged Wrongful Voting	Richard Hendl	1/13/2021	RSA 654:1 and RSA 659:34, I(a) and (e), Alleged Wrongful Voting	Closed on 11/9/2021	000129-000132
Alleged Wrongful Voting	Richard Hendl	1/13/2021	RSA 654:1 and RSA 659:34, I(a) and (e), Alleged Wrongful Voting	Closed on 11/9/2021	000133-000135
Alleged Wrongful Voting	Matthew Normand	1/29/2021	RSA 659:34, I(a), (b), (e), Alleged Wrongful Voting	closed on 9/1/2021	000115-000118
Alleged Wrongful Voting	Matthew Normand	2/4/2021	RSA 659:34, Alleged Wrongful Voting	Closed on 12/10/2021	000140-000141
Alleged Wrongful Voting	Matthew Normand	2/4/2021	RSA 659:34, Alleged Wrongful Voting	Closed on 12/10/2021	000142-000143
Alleged Wrongful Voting	Anonymous	11/23/2020	RSA 654:1 and RSA 659:34 I(a), (e), Alleged Wrongful Voting	Closed on 10/28/2021	000121-000122
Pittsfield School District Superintendent	James Adams	3/1/2021	RSA 659:44-a, Alleged Illegal	Closed on 8/24/2021	000112-000114

			Campaign Activity		
Woodsville Fire District	Town of Haverhill	3/2/2021	RSA 659:44-a, Alleged Illegal Campaign Activity	Closed on 4/13/2021	000028-000033
Milford Police Department	Kevin Kleber	3/3/2021	RSA 659:44-a, Alleged Illegal Campaign Activity	Closed on 7/8/2021	000060-000077
Hanover High School	Daniel Richards	3/3/2021	RSA 659:44-a, Alleged Illegal Campaign Activity	Closed on 3/24/2021	000025-000027
Friends of Pelham	S. Amy Spencer, Esq.	3/4/2021	RSA 664:14, Alleged Campaign Finance Violation	Closed on 2/11/2022	000146-000147
Westmoreland Mailer re Firehouse	Olivia Belanger/Keene Sentinel	3/2/2021	RSA 664:14, Alleged Illegal Campaign Activity	Closed on 6/7/2021	000057-000059
Town of New Ipswich	Bob Romeril	3/9/2021	RSA 657:15, RSA 659:50, RSA 659:53 ER&F	Open	
Plaistow Signs (Peck and Fowler)	Ty Vitale	3/5/2021	RSA 664:21, Alleged Illegal Campaign Activity	Closed on 1/28/2022	000144-000145

Town of Ashland	Andrew Fitch	3/9/2021	RSA 658:24, ER&F	Closed on 6/7/2021	000049-000050
New Hampshire Young Democrats, Ashley Marcoux	Matthew Poulin	3/12/2021	RSA 659:40, Alleged Illegal Campaign Activity	Closed on 3/24/2021	000023-000024
Deb Paul, Sara Loughlin	Laura Morin	3/5/2021	RSA 664:16, Alleged Illegal Campaign Activity	Closed on 9/23/2021	000119-000120
Timothy Tsantoulis	Gianna Valentino	3/9/2021	RSA 664:14, Alleged Illegal Campaign Activity	Closed on 11/8/2021	000127-000128
Town of Haverhill	Matthew Bjelobrk	3/8/2021	RSA 659:44, RSA 664:17, Alleged Illegal Campaign Activity	Closed 8/19/2022	000152-000170
Alleged Wrongful Voting	Ned McElroy	1/29/2021	RSA 659:34-a, Alleged Wrongful Voting	Closed on 6/14/2021	000084-000086
Alleged Wrongful Voting	Ned McElroy	1/29/2021	RSA 659:34-a, Alleged Wrongful Voting	Closed on 6/14/2021	000087-000088
Alleged Wrongful Voting	Norman Silber	3/8/2021	RSA 659:27, Alleged Wrongful Voting	Closed on 6/28/2021	000102-000103

Kevin Federico and Milford Residents	Paul Bagley	3/7/2021	RSA 664:2, 3, 6, 14, 21, Alleged Illegal Campaign Activity	Closed on 6/28/2021	000099-000101
David Testa	Chris Canfield	11/12/2020	RSA 659:43, RSA 652:16(h), Alleged Illegal Campaign Activity	Closed 5/24/2022	000148-000149
Town of Hudson		2/11/2020	RSA 658:9, ER&F	Closed 4/27/2022	000051-000056
Dennis Wagner	Littleton Police Department	11/3/2020	RSA 659:43, RSA 652:16(h), Alleged Illegal Campaign Activity	Closed 5/24/2022	000150-000151
Town of Allenstown	Jennifer Bailey	4/1/2021	RSA 654:7, RSA 654:12, ER&F	Closed on 6/28/2021	000104-000107
Jason Johnson (Milford Area Communication Center)	Mark Fougere	4/5/2021	RSA 659:44-a, Alleged Illegal Campaign Activity	Open	
Ruth Mooney		3/9/2021	RSA 659:43, Alleged Illegal Campaign Activity	Closed on 12/6/2021	000136-000139
Alleged Wrongful Voting	Rep. Rosemarie Rung	4/10/2021	RSA 659:34, I(e), RSA 657:24, Alleged Wrongful Voting	Closed on 11/8/2021	000125-000126

NH GOP Candidate, Craigslist	NHGOP Ex Dir Joe Sweeney	4/13/2021	RSA 659:40-a, Alleged Illegal Campaign Activity	Open	
Alleged Wrongful Voting	Eliza Grant	4/23/2021	RSA 659:34, I(a), (e), Alleged Wrongful Voting	Open	
Alleged Wrongful Voting	Louise Curtin	5/27/2021	RSA 659:34, I(a), (e), Alleged Wrongful Voting	Closed on 11/8/2021	000123-000124
City of Manchester	SoS referral	6/10/2021	RSA 666:2, ER&F	Open	
Edward McElroy	Sean Tole	6/14/2021	RSA 659:40, II, Alleged Illegal Campaign Activity	Open	

A. Number of Complaints Received Per Month

Month/ year	Number of Complaints
January 2021	3
February 2021	3
March 2021	18
April 2021	9
May 2021	0
June 2021	3
TOTAL:	36

B. Complaints Received by Type of Complaint

Type of Complaint	RSA Violations	Number of Complaints
Alleged Wrongful Voting	RSA 654:1 (domicile); RSA 654:2 (temporary absence); RSA 657:24 (Misuse of Absentee Ballot); RSA 659:27 (Challenge Voter Affidavit); RSA 659:34 (Wrongful Voting/registration); RSA 659:34-a (Voting In More Than One State);	13
Alleged Illegal Campaign Activity	RSA 659:40 (voter intimidation/suppression/bribery); RSA 659:43 (distributing campaign materials at polling place); RSA 659:44-a (electioneering by public employee); RSA 664:14 (political advertising disclosure requirements); RSA 664:21 (Identification of Signs)	17
Alleged Election Official Misconduct		0
Alleged Campaign Finance Violation	RSA 664:14 (mailer)	1
Election Review & Follow-Up		5
TOTAL:		36

II.

**INVESTIGATIONS OPEN PRIOR TO THE
REPORTING PERIOD**

Alleged Violation	Date Opened	Date Closed	Bates No.
Wrongful Voting RSA 659:34 – Dismissed without prejudice by the court due to competency order pursuant to RSA 135:17-a	11/15/16	8/12/22	000182- 000184
Wrongful Voting RSA 659:34 – Guilty Plea	7/18/18	4/22/22	000171- 000176
Wrongful Voting RSA 659:34 – Guilty Plea	1/7/19	5/4/22	000177- 000181
Wrongful Voting RSA 659:34 – Active Investigation	10/30/19		
Wrongful Voting RSA 659:34 RSA 654:7 – Charges Filed	12/3/19		

III.

INDEX OF CLOSURE LETTERS/COMMUNICATIONS

Alleged Violation	Date Closed	Bates Page Number
RSA 659:34 Wrongful Voting	January 5, 2021	000001
RSA 659:34 Wrongful Voting	January 6, 2021	000002
RSA 659:44 Electioneering	January 11, 2021	000003
RSA 659:34 Wrongful Voting	January 14, 2021	000004
RSA 659:34, I(a),(e) Wrongful Voting	January 26, 2021	000005
RSA 659:34 Wrongful Voting	February 8, 2021	000006-000007
RSA 659:34 Wrongful Voting	February 18, 2021	000008-000009
RSA 664:21 Political Advertising	February 26, 2021	000010-000014
RSA 659:34 Wrongful Voting	March 11, 2021	000015-000017
RSA 659:34 Wrongful Voting	March 23, 2021	000018-000021
RSA 659:20 Voting Assistance	March 24, 2021	000022
RSA 659:40 Voter Suppression	March 24, 2021	000023-000024
RSA 659:43 Electioneering	March 24, 2021	000025-000027
RSA 659:44 Electioneering	March 26, 2021	000028-000033
RSA 657:4 Political Mailing	March 26, 2021	000034-000036
RSA 659:34 Wrongful Voting	May 13, 2021	000037-000041
RSA 658:9 Polling Location	June 7, 2021	000042-000048
RSA 659:58 Duty of Election Official	June 7, 2021	000049-000050
RSA 658:9 Polling Location	June 7, 2021	000051-000056
RSA 664:14 Political Advertising	June 7, 2021	000057-000059
RSA 659:44-a Political Advertising	June 7, 2021	000060-000077
RSA 659:53 Delivery of Absentee Ballot	June 7, 2021	000078-000079
RSA 659:44-a Electioneering	June 7, 2021	000080-000081
COVID - mask	June 7, 2021	000082-000083
RSA 659:34 Wrongful Voting	June 14, 2021	000084-0000864
RSA 659:34 Wrongful Voting	June 14, 2021	000089-000092
RSA 659:34 Wrongful Voting	June 14, 2021	000093-000095
COVID – alternative voting area	June 14, 2021	000096-000098
RSA 664:14 Political Advertising	June 28, 2021	000099-000101
RSA 659:27 Challenged Voter	June 28, 2021	000102-000103
RSA 654:7, II Challenged Voter	June 28, 2021	000104-000107
RSA 664:6 Campaign Finance	June 28, 2021	000108-000109
RSA 659:34 Wrongful Voting	June 28, 2021	000110-000111

RSA 659:44-a Political Advertising	August 24, 2021	000112-000114
RSA 659:34 Wrongful Voting	September 1, 2021	000115-000118
RSA 664:16 Political Advertising	September 23, 2021	000119-000120
RSA 659:34 Wrongful Voting	October 28, 2021	000121-000122
RSA 659:34 Wrongful Voting	November 8, 2021	000123-000124
RSA 659:34 Wrongful Voting	November 8, 2021	000125-000126
RSA 664:14 Political Advertising	November 8, 2021	000127-000128
RSA 659:34 Wrongful Voting	November 9, 2021	000129-000132
RSA 659:34 Wrongful Voting	November 9, 2021	000133-000135
RSA 659:44 Electioneering	December 6, 2021	000136-000139
RSA 659:34 Wrongful Voting	December 10, 2021	000140-000141
RSA 659:34 Wrongful Voting	December 10, 2021	000142-000143
RSA 664:14 Political Advertising	January 28, 2022	000144-000145
RSA 664:2 Political Advertising	February 11, 2022	000146-000147
RSA 659:43 Electioneering	May 24, 2022	000148-000149
RSA 659:43 Electioneering	May 24, 2022	000150-000151
RSA 659:44 & 664:17 Electioneering	August 19, 2022	000152-000170
RSA 659:34 Wrongful Voting	April 22, 2022	000171-000176
RSA 659:34 Wrongful Voting	May 4, 2022	000177-000181
RSA 659:34 Wrongful Voting	August 12, 2022	000182-000184

**Closure Letters, Settlement Agreements,
Cease and Desist Orders, Complaints Filed With A Court,
Or Other Official Communications**

Events Note to File

[REDACTED] Alleged Wrongful 2020145504
Voting

Note to File
1/5/2021

This matter will be closed as unfounded.

Crosscheck said that the subject voted in both NH and AZ during the November 2016 election.

The subject denied voting in AZ and admitted to voting in NH during the 2016 November election. Counsel for the subject provided this office with a statement from the subject's uncle who bears the same name.

The uncle confirmed that he voted in the 2016 November election using a UOCAVA ballot.

AZ records do not indicate that AZ officials received a UOCAVA ballot (or "early vote") from the uncle for the 2016 November election.

An FPCA form dated 10/8/2016 confirms the uncle's statement and is stamped received by the Maricopa County Dept. of Elections on 10/26/2016. The uncle specifies on the FPCA form that he wants his UOCAVA ballot sent to him for all federal elections, specifically the 2016 presidential elections.

The AZ voter history for the subject suggests that he early voted for the 2016 November election.

An AZ FPCA affidavit signed by the uncle and dated 11/3/2016, was marked received by the Maricopa County Dept. of Elections on 11/3/2016. This affidavit is similar to the one that NH UOCAVA voters must include with the submission of their completed UOCAVA ballot.

According to the Federal Voter Assistance Program website, AZ permits UOCAVA voters to submit their completed ballots by mail, online, or by fax.

Based on the forgoing, I believe that this Crosscheck referral was due to AZ officials' error. They received a completed UOCAVA ballot for the uncle by email, but recorded it under the profile of the subject.

Therefore, this matter will be closed.

Note to File

██████████ Alleged Wrongful Voting

2020146484

1/6/2021

Note to File

2:57:11 PM

This matter will be closed as unfounded.

Crosscheck referral suggests subject voted in both Salem, NH and Methuen, MA during the November 2016 election.

While there is a letter from the Methuen City Clerk indicating that subject was checked off on both the entry and exit checklists, we only have a copy of the entry list. MA has since destroyed its election records from 2016.

The MA entry list shows three individuals living at the same residence, all having voted. Of these three voters, both the subject and another voter have the same exact name. The only difference is one of the two has a "Jr" following his name.

This Office called and spoke with the subject who denied voting in MA during the November 2016 election. He admitted to voting in Salem, NH during this election. He had lived in Methuen in 2016 but moved to Salem, NH in August of 2016, he registered to vote in September of 2016 in Salem NH as well with his new Salem address. He has officially left MA and has been domiciled in NH since 2016. He told this Office that his cousin was with him when he voted in NH.

This Office spoke with the cousin who confirmed that the subject did in fact vote in NH on Election Day, and that they voted together toward the end of the day, after they both finished work.

The subject's father, who has the exact same name, confirmed that his son was living in NH during the November 2016 election and would not have voted in MA.

Based on the forgoing, and in light of MA practice of not requiring photo ID to vote on Election Day, there is insufficient evidence to establish beyond a reasonable doubt that Hamman, Jr. voted in both NH and MA during the 2016 November election.

Therefore this matter will be closed as unfounded.

Events Note to File

Troy Police Department, Alleged
Illegal Campaign Activity

2020146279

Note to File

1/11/2021

This matter will be closed.

On 1/11/2021, I spoke with Cheshire County Attorney Chris McLaughlin.

He explained that before bringing this matter to this Office's attention, he had already contacted the Troy Police Department Chief, and informed him that there is a law prohibiting electioneering by public employees, meaning that the political signs the Chief reportedly posted in his office had to come down.

This matter was appropriately handled by the County Attorney's Office, the Chief has been made aware of the applicable statute, the signs have been removed, and no further action is required.

This matter is closed.

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

January 14, 2021

Donna Antaramian

[REDACTED]
Haverhill, MA 01832

Re: Plaistow New Hampshire Postal Worker (2020144874)

Dear Ms. Antaramian:

On September 14, 2020, we received your complaint involving a Plaistow, New Hampshire [REDACTED] you identified as [REDACTED]. In your complaint, you alleged that [REDACTED] admitted he planned on mailing in his ballot as well as voting in-person for the 2020 November General Election.

New Hampshire's election laws impose safeguards to ensure that a qualified voter can only vote once. If an absentee ballot received from a voter is processed on Election Day, election officials are required to make a notation on the voter check-in checklist, indicating that the voter's absentee ballot has already been cast. Once that notation is applied, even if the voter appeared in-person to vote, he or she would not be able to cast another ballot. RSA 659:53.

Please be advised that we contacted the [REDACTED]. We obtained the [REDACTED] last name and using New Hampshire's ElectionNet system, determined that no voter by this name requested an absentee ballot during the 2020 November General Election. We also understand the employee known as [REDACTED] no longer works for [REDACTED].

This matter is closed. Thank you for sharing your concern.

Sincerely,

A handwritten signature in cursive script, appearing to read "Nick Chong Yen".

Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
(603) 271-3650
Nicholas.A.ChongYen@doj.nh.gov

000004

Events Note to File

██████████ (Manchester - Voter
Fraud Project Veritas)

2016118861

Note to File

1/26/2021

This matter will be closed.

After reviewing this matter and conducting further follow-up, there is insufficient evidence to prove beyond a reasonable doubt each element of the alleged offense under RSA 659:34, I(a) or (e).

As a result, this matter will be closed.

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

February 8, 2021

Janice Bonenfant, City Clerk
City of Concord
41 Green Street
Concord NH 03301

Re: [REDACTED] Alleged Wrongful Voting (2020146513)

Dear Clerk Bonenfant:

On June 4, 2020 you contacted this Office to report that [REDACTED] may have double voted during the February 11, 2020 Presidential Primary, by voting in both Plymouth and Concord, New Hampshire. After careful consideration, this Office concludes that there is insufficient evidence to prove beyond a reasonable doubt that a violation of New Hampshire's election laws occurred.

In reaching this determination, we reviewed election records from both Plymouth and Concord for [REDACTED] including his voter registration form, the marked voter checklist for the 2020 Presidential Primary election from Plymouth and Concord, and also spoke with [REDACTED] about this matter.

On February 11, 2020, [REDACTED] same-day registered to vote in Concord during the Presidential Primary election. He listed [REDACTED] in Concord as his domicile address for voting purposes. [REDACTED] wrote that he was previously registered to vote in Plymouth, New Hampshire.

Election records show that [REDACTED] last registered to vote in Plymouth on September 11, 2018. On his voter registration form, he wrote that he was domiciled at [REDACTED]. The last place he was registered to vote was in Manchester, New Hampshire. The voter registration form shows that [REDACTED] used information from his "MyPlymouth" account (part of Plymouth State University), as proof of his domicile. He moved to this address in August of 2018.

On January 5, 2021, Investigator Robert Sullivan spoke with [REDACTED] [REDACTED] s sister. She stated she knew [REDACTED] did not vote in Plymouth during the

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Concord City Clerk Janice Bonefant
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2020 Presidential Primary because he had moved to Concord following his graduation from Plymouth State University.

This same day, Investigator Sullivan also spoke with [REDACTED] directly. [REDACTED] denied voting in Plymouth during the 2020 Presidential Primary election. He explained that he had left Plymouth in August of 2019 and moved to Concord. He said he was no longer enrolled at Plymouth State University and no longer domiciled in Plymouth. Moreover, [REDACTED] only returned to the campus approximately twice a month in order to attend a one-hour meeting with his music education advisor. [REDACTED] denied being in Plymouth on the day of the Presidential Primary.

On the day of the Presidential Primary, the routine monthly meeting scheduled on Wednesday, February 12, 2020 was postponed. [REDACTED] was also contacted by his mentor teacher, who directed him to cover a teacher workshop at the Belmont High School on the day of the election. Consequently, [REDACTED] had no reason to be in Plymouth that week, let alone on the day of the election.

Based on the forgoing, there is insufficient evidence to prove beyond a reasonable doubt that [REDACTED] voted in both Concord and Plymouth during the 2020 Presidential Primary election.

This matter is closed. Please feel free to contact me if you have any questions.

Sincerely,



Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
(603) 271-3650
nicholas.chongyen@doj.nh.gov

cc: Plymouth Supervisors of the Checklist

000007

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

February 18, 2021

[REDACTED]
Worcester, MA 01609

Re: [REDACTED] Alleged Wrongful Voting (2020145629)

Dear [REDACTED]

On October 14, 2020, this Office received a report from the Town of Chester Supervisor of the Checklist Kathy Burke, stating that you were attempting to register to vote using an address you no longer lived at. After careful consideration, we have determined that no violation of New Hampshire's election laws has occurred.

In making this determination, this Office spoke with Supervisor Burke, who in addition to her report, shared information she was given by [REDACTED] the owner of [REDACTED] Chester, New Hampshire. This Office also obtained and reviewed your election records and motor vehicle records.

On September 7, 2020, you submitted to the Chester election officials an absentee voter registration package. On the voter registration form, you wrote that you were domiciled at [REDACTED] Chester, New Hampshire. You listed that your mailing address was [REDACTED] Worcester, MA. You completed an absentee voter registration affidavit. However, the version you completed and signed was from "6/18." The version of this affidavit that was required at this time was dated "7/20." In addition, the proof of domicile you provided was a letter, written by [REDACTED] and dated June 3, 2019. [REDACTED] stated that you had been residing at this address since "5-29-19." Attached with [REDACTED]'s letter was your New Hampshire driver's license, which listed [REDACTED] as your address.

Noting the date of [REDACTED]'s letter, the Supervisors contact him to verify if you were still domiciled at [REDACTED]. [REDACTED] told the Supervisors that you had not been domiciled at this address since October 27, 2019. He further stated that you had been living and/or travelling between your girlfriend's home in Worcester, Massachusetts and the country of Lebanon.

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After conducting this review, the Supervisors voted to reject your absentee voter registration application. You did not attempt to register again to vote in New Hampshire, and have not ever voted in this State.

On January 7, 2021, Chief Investigator Richard Tracy spoke with you. You acknowledged that you attempted to register to vote in Chester before the 2020 November General Election. You explained that you used your Chester address, which was listed on your driver's license, because it was what you considered to be your last permanent domicile. You further explained to Investigator Tracy that for the past year, you had been staying between Worcester and Lebanon, but had not established a permanent domicile in either place. You indicated that you have now established [REDACTED] in Worcester as your permanent domicile.

Investigator Tracy informed you that unless you re-establish domicile in New Hampshire, you cannot register to vote or vote in this State.

In New Hampshire, in order to vote in a town, ward, or unincorporated place a person must be domiciled there. A "domicile for voting purposes is that one place where a person, more than any other place, has established a physical presence and manifests an intent to maintain a single continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government." RSA 654:1, I. Domicile for the purpose of voting as defined in RSA 654:1, once existing, continues to exist until another such domicile is gained. RSA 654:2.

In this case, the Supervisors correctly rejected your application. However, we understand that you believed the Chester address was your last permanent domicile, and you had not established domicile in either Worcester or Lebanon. Based on the forgoing, we conclude that no violation of New Hampshire's election laws has occurred.

However, you have informed this Office that you are no longer domiciled in New Hampshire. Please be advised that unless you re-establish domicile in this State within the meaning of RSA 654:1, you cannot register to vote or vote in New Hampshire. Failure to follow this law could result in enforcement action, including criminal prosecution. This matter is closed. Please feel free to contact me if you have any questions.

Sincerely,



Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
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nicholas.chongyen@doj.nh.gov

cc: William M. Gardner, Secretary of State
Kathy Burke, Town of Chester

000009

**THE STATE OF NEW HAMPSHIRE
COMPLAINT**

Case Number: 456-20-3441

Charge ID: 1812319c

Case Number:

<input type="checkbox"/> VIOLATION	MISDEMEANOR	<input type="checkbox"/> CLASS A	<input checked="" type="checkbox"/> CLASS B	<input type="checkbox"/> UNCLASSIFIED (non-person)
	FELONY	<input type="checkbox"/> CLASS A	<input type="checkbox"/> CLASS B	<input type="checkbox"/> UNCLASSIFIED (non-person)

You are to appear at the: **9th Circuit - District Division - Manchester** Court,
 Address: **35 Amherst Street Manchester NH 03101** County: **Hillsborough County**
 Time: _____ Date: **DEC 04 2020**

Under penalty of law to answer to a complaint charging you with the following offense:

THE UNDERSIGNED COMPLAINS THAT: PLEASE PRINT

<u>Yondel</u> Last Name	<u>Rachel</u> First Name	_____	Middle
_____	<u>Manchester</u> City	<u>NH</u> State	<u>03104</u> Zip

Address: _____
 Sex _____ Race _____ Height _____ Weight _____ Eye Color _____ Hair Color _____

DOB _____ License #: _____ OP License State _____
 COMM. VEH. COMM. DR. LIC. HAZ. MAT. 16+PASSENGER

AT: **Ray Street, Manchester, New Hampshire**

On **10/05/2020** at _____ in **Hillsborough County NH**, did commit the offense of:

RSA Name: **Placement and Removal of Political Advertising**

Contrary to RSA: **RSA 664:17; RSA 664:21, 629:1**

Inchoate: **Attempt**
 (Sentence Enhancer):

And the laws of New Hampshire for which the defendant should be held to answer, in that the defendant did:

knowingly attempt to remove political advertising, to wit, a "Trump Keep America Great 2020" sign, that was affixed to private property belonging to J.C. in Manchester, New Hampshire, by cutting one of the ropes affixing this political advertisement to J.C.'s private property, when Vondel was not the owner of the property or a person authorized by the owner of the property to remove the sign, which, under the circumstances as Vondel believed them to be, was an act constituting a substantial step toward the commission of the crime,

[Signature] #16361
 Conditional NH Pros
 2-26-21

against the peace and dignity of the State.

SERVED IN HAND

<u>Nicholas Chong Yen</u> Complainant Signature	Nicholas Chong Yen #268425 Complainant Printed Name	Attorney General Complainant Dept.
--	---	--

Making a false statement on this complaint may result in criminal prosecution.

Oath below not required for police officers unless complaint charges class A misdemeanor or felony (RSA 592-A:7.I).
 Personally appeared the above named complainant and made oath that the above complaint by him/her subscribed is, in his/her belief, true.

 Date Justice of the Peace

Charge ID:

THE STATE OF NEW HAMPSHIRE

COMPLAINT

Case Number: 480-20-3441

Charge ID: 1812320C

Case Number:

<input type="checkbox"/> VIOLATION	<input type="checkbox"/> MISDEMEANOR	<input type="checkbox"/> CLASS A	<input checked="" type="checkbox"/> CLASS B	<input type="checkbox"/> UNCLASSIFIED (non-person)
	<input type="checkbox"/> FELONY	<input type="checkbox"/> CLASS A	<input type="checkbox"/> CLASS B	<input type="checkbox"/> SPECIAL

You are to appear at the: **9th Circuit - District Division - Manchester** Court,
 Address: **35 Amherst Street Manchester NH 03101** County: **Hillsborough County**
 Time: _____ Date: _____

Under penalty of law to answer to a complaint charging you with the following offense:

THE UNDERSIGNED COMPLAINS THAT: PLEASE PRINT

Vondel RCT 10/1/20
 Last Name: [REDACTED] First Name: Rachel Middle: _____
 Address: _____ City: Manchester State: NH Zip: 03104
 Sex: _____ Race: _____ Height: _____ Weight: _____ Eye Color: _____ Hair Color: _____

Charge ID:

DOB: _____ License #: _____ OP License State: _____
 COMM. VEH. COMM. DR. LIC. HAZ. MAT. 16+PASSENGER

AT: **Ray Street, Manchester, New Hampshire**
 On **10/05/2020** at _____ in **Hillsborough County NH**, did commit the offense of:
 RSA Name: **Criminal Mischief**
 Contrary to RSA: **RSA 634:2**
 Inchoate:
 (Sentence Enhancer):

And the laws of New Hampshire for which the defendant should be held to answer, in that the defendant did:
having no right to do so nor any reasonable basis for belief of having such a right, Vondel recklessly damaged the property of another, a political sign belonging to J.C., by cutting a rope affixing that sign to J.C.'s private property in Manchester, New Hampshire.

[Signature] #16361
 NoL Pros
 2-26-21

against the peace and dignity of the State.

SERVED IN HAND

Nicholas Chong Yen _____ **Nicholas Chong Yen #268425** _____ **Attorney General**
 Complainant Signature Complainant Printed Name Complainant Dept.

Making a false statement on this complaint may result in criminal prosecution.

Oath below not required for police officers unless complaint charges class A misdemeanor or felony (RSA 592-A:7.1).
 Personally appeared the above named complainant and made oath that the above complaint by him/her subscribed is, in his/her belief, true.

 Date Justice of the Peace

**THE STATE OF NEW HAMPSHIRE
COMPLAINT**

Case Number: 456 203441

Charge ID: 1812321C

Case Number:

<input checked="" type="checkbox"/> VIOLATION	MISDEMEANOR	<input type="checkbox"/> CLASS A	<input type="checkbox"/> CLASS B	<input type="checkbox"/> UNCLASSIFIED (non-person)
	FELONY	<input type="checkbox"/> CLASS A	<input type="checkbox"/> CLASS B	<input type="checkbox"/> UNCLASSIFIED (non-person)

You are to appear at the: **9th Circuit - District Division - Manchester** Court,
Address: **35 Amherst Street Manchester NH 03101** County: **Hillsborough County**

Time: _____ Date: **DEC 04 2020**

Under penalty of law to answer to a complaint charging you with the following offense:

THE UNDERSIGNED COMPLAINS THAT: PLEASE PRINT

Vondel RE RCT 12/7/20 Rachel
Last Name First Name Middle

Address City State Zip
Manchester NH 03104

Sex Race Height Weight Eye Color Hair Color

DOB License #: OP License State
 COMM. VEH. COMM. DR. LIC. HAZ. MAT. 16+PASSENGER

AT: **Ray Street, Manchester, New Hampshire**

On **10/05/2020** at **Hillsborough County NH**, did commit the offense of:

RSA Name: **Criminal Trespass**

Contrary to RSA: **RSA 635:2**

Inchoate:
(Sentence Enhancer):

And the laws of New Hampshire for which the defendant should be held to answer, in that the defendant did:
knowing that she was not licensed nor privileged to do so, Vondel entered the private property of J.C. in Manchester, New Hampshire,

against the peace and dignity of the State.

SERVED IN HAND

Nicholas Chong Yen Nicholas Chong Yen #268425 Attorney General
Complainant Signature Complainant Printed Name Complainant Dept.

Making a false statement on this complaint may result in criminal prosecution.

Oath below not required for police officers unless complaint charges class A misdemeanor or felony (RSA 592-A:7.1).
Personally appeared the above named complainant and made oath that the above complaint by him/her subscribed is, in his/her belief, true.

Date _____ Justice of the Peace _____

Charge ID:

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH

http://www.courts.state.nh.us

Court Name: 9th Circuit - District Division - Manchester
Case Name: State v. Rachel Vonderie RCT 12/20
Case Number: 456-2020-CR-03441 Charge ID Number: 1812321C
(if known)

DISPOSITION AND SENTENCING FORM

PLEA: Guilty Not Guilty No Contest No Plea
 Change Plea To: No Contest Guilty

FINDING: Guilty Not Guilty Dismissed

Complaint placed on file With finding Without finding

and not to be brought forward after _____ on the below conditions of this order.

PROBABLE CAUSE: Found Not Found Hearing Waived _____ (date)

Bail \$ _____ Committed See attached bail order

SENTENCE:

FINE

The defendant is fined \$ 500, plus statutory penalty assessment of \$ 120

\$ _____ of the fine is: suspended deferred for _____ months years

\$ _____ of the statutory penalty assessment is:

suspended deferred for _____ months years

The defendant shall perform _____ hours of community service to satisfy the fine.

This is a domestic violence conviction under RSA 631:3 reckless conduct, or RSA 633:3-a interference with freedom – stalking, requiring the mandatory imposition of a **\$50.00 fine** which may not be reduced, suspended or discharged by imprisonment.

COMMITMENT

The defendant is sentenced to the House of Corrections for a period of _____ days months

Pretrial confinement credit: _____ days.

This sentence is to be served as follows:

Stand committed Commencing _____

_____ days months of the sentence are suspended deferred to _____ (date) on the below conditions.

The commitment is consecutive to _____

RESTITUTION

The defendant is ordered to make restitution to _____
in the amount of \$ _____

Payable through the Department of Corrections as directed by the probation/parole officer plus the statutory administrative fee.

Other: _____

000013

Case Name: State v. Rachel Vondel

Case Number: 456-2020-CR-03441

Charge ID Number: 1812321C

DISPOSITION AND SENTENCING FORM

PROBATION

The defendant is placed on probation for a period of ____ months year(s), upon the usual terms of probation and any special terms of probation determined by the probation/parole officer.
Effective: Immediately Upon Release

The defendant is ordered to report immediately/upon release to the Probation/Parole Office.

OTHER CONDITIONS OF SUSPENDED OR DEFERRED SENTENCE

The defendant is ordered to be of good behavior and comply with all the terms of this sentence for a period of ____ days months years. Good behavior is defined as not committing any act(s) that would constitute a felony, misdemeanor or major motor vehicle violation as defined in RSA 259:39 (I).

The defendant's license privilege to operate in New Hampshire is
 Suspended Revoked for a period of ____ days months years
effective _____

The loss of license is consecutive to _____

The defendant shall meaningfully participate in LADC/mental health/_____
evaluation and follow all recommendations including, but not limited to, counseling, treatment and education programs. Written proof of the evaluation shall be provided to the prosecutor and the court by _____ (date) and written proof of compliance with the recommendations shall be provided by _____ (date).

The defendant shall perform ____ hours of community service and provide proof to the State by _____ (date).

The defendant is ordered to have no contact with _____ either directly or indirectly, or through third parties, including but not limited to contact in-person, by mail, phone, e-mail, text message, social networking sites and/or electronic communications for a period of ____ days months years

The defendant is not allowed to enter _____ (location) for a period of ____ years.

Other:

APPEAL _____ (date) Bail \$ _____ Committed See attached bail order

2/26/21
Date

William H. Lyons
Signature of Judge
William H. Lyons
Printed Name of Judge

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**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

March 11, 2021

[REDACTED]
Dover, NH 03820

Re: [REDACTED] Alleged Wrongful Voting

Dear [REDACTED]

As part of the Interstate Voter Registration Crosscheck Program ("Crosscheck:"), your names were referred to this Office for further investigation into potential violations of RSA 659:34-a – Voting in More than One State Prohibited. Crosscheck indicated that you both voted in Dover, New Hampshire and Kittery, Maine during the November 8, 2016 General Election. After careful consideration, we conclude that there is insufficient evidence to prove beyond a reasonable doubt that either of you voted in New Hampshire and Maine during the 2016 General Election.

In reaching this conclusion, we reviewed Kittery's election records from the 2016 General Election, reviewed Dover's election records from the 2016 General Election, spoke with Kittery Town Clerk Karen Estee, reviewed property records, spoke with [REDACTED] and spoke with both of you.

On the Kittery voter checklist for the 2016 General Election, both of your names were marked with a red checkmark, which indicated that you were in-person voters. Beside both of your names was the address: [REDACTED] Kittery, Maine. Clerk Estee confirmed that since the November 8, 2016 General Election, neither of you had voted in Kittery.

On October 28, 2016, you both completed and submitted New Hampshire voter registration forms, on which, you listed 6 Ella Woods Drive as your previous address, and [REDACTED] Dover, New Hampshire as your current address. A law enforcement database confirmed that you both moved from your address in Kittery to your address in Dover in April of 2016. Property records further confirmed that you sold your home in Kittery on April 12, 2016.

On the Dover voter checklist for the November 8, 2016 General Election, both of your names had a line through the last name, indicating you voted in-person.

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On October 20, 2020, [REDACTED] spoke with Investigator Allison Vachon. During the conversation, while [REDACTED] admitted to voting in Dover during the 2016 General Election, she denied voting in Kittery. [REDACTED] remarked how everyone in Kittery knew her family, and knew they had left Kittery.

Also on October 20, 2020, Investigator Vachon spoke with [REDACTED]. He similarly denied voting in Kittery, but confirmed that he voted in Dover during the 2016 General Election. [REDACTED] added that at the time, he worked at the [REDACTED] in Portsmouth, New Hampshire, and that the family had transferred their motor vehicle registration from Kittery to Dover.

On October 22, 2020, [REDACTED] shared with Investigator Vachon that the neighbors' house at [REDACTED] in Kittery, was bought by a couple with a similar name to the [REDACTED]. [REDACTED] suggested that having similar names and addresses, perhaps [REDACTED] names were checked off instead of [REDACTED] names during the 2016 General Election. A law enforcement database confirmed that [REDACTED] did in fact reside at [REDACTED].

On October 29, 2020, Investigator Vachon spoke with Clerk Estee, who explained that Maine election officials do not check identification when a voter comes to the polling place to vote.

On November 23, 2020, Clerk Estee confirmed that [REDACTED] was listed on Kittery's "Additions to Incoming Voter List" for the 2016 General Election, and was checked-off as having voted in-person. However, Clerk Estee could not find an entry for [REDACTED] that indicated he voted in Kittery during the 2016 General Election. There was however a [REDACTED] who lived at [REDACTED] who was listed on the checklist. [REDACTED] was not marked as having voted during the 2016 General Election.

On March 1, 2021, Investigator Vachon spoke with both [REDACTED]. [REDACTED] stated that he does not vote in Kittery because he works and his primary residence is in Lynn, Massachusetts. [REDACTED] confirmed that he registered to vote in Kittery, but has not voted since he registered. Investigator Vachon also spoke with [REDACTED] confirmed that she did in fact vote in-person during the 2016 General Election.

Based on the forgoing, there is insufficient evidence to establish beyond a reasonable doubt that either of you voted in New Hampshire and in Maine during the 2016 General Election. The evidence instead suggests you both took affirmative steps to make Dover, New Hampshire your domicile, and had no reason to be in Kittery during the 2016 General Election. This includes selling your home in Kittery six months prior to the 2016 General Election. Furthermore, the fact that Maine election officials do not examine photo identification while voters check-in at the polling place on Election Day, suggests the possibility of election official error in this case.

Please be advised, RSA 659:34-a prohibits voters from voting in more than one state. Violation of this statute is a class B felony. Failure to comply with this statute could result in criminal prosecution.

This matter is closed. Please feel free to contact me should you have any questions.

Sincerely,



Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
(603) 271-3650
nicholas.chongyen@doj.nh.gov

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

~~GORDON J. MACDONALD~~
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

March 23, 2020

[REDACTED]
Northwood, NH 03261

Re: **CEASE AND DESIST ORDER** (2020145319)
Warning for violation of RSA 659:34-a

Dear [REDACTED]

On October 7, 2020, Northwood Moderator Tom Chase contacted this Office with allegations that you unlawfully voted using [REDACTED] in Northwood, New Hampshire as your domicile address for voting purposes during the 2020 September State Primary election.

We reviewed documents from Mr. Chase including: (i) a copy of the 09/08/2020 State Primary Election official checklist; (ii) an obituary from the Parker Funeral Home for [REDACTED] (iii) printouts from the websites of "Whitepages Premium," "FastPeople Search," and "mylife.com"; and (iv) a newsletter from a parish located in Beverly, Massachusetts. Mr. Chase suggested these documents established that you were not domiciled in Northwood, New Hampshire, and thus not qualified to vote in Northwood during the 2020 September State Primary election. We also reviewed Mr. Chase's email exchange with Assistant Clerk Christine Dixon of Beverly. In addition to this information, this Office reviewed your voter records, your motor vehicle records, spoke with Northwood Town Clerk Marisa Russo, and spoke with you.

In New Hampshire, in order to vote in a town, ward, or unincorporated place you must be domiciled there. A "domicile for voting purposes is that one place where a person, more than any other place, has established a physical presence and manifests an intent to maintain a single continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government." RSA 654:1, I (emphasis added). A "voter can only have one domicile for voting purposes." RSA 654:2. (emphasis added).

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The supervisors of the checklist must consider the applicant's manifestations of intent to maintain a single, continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government. There are many types of documents that satisfy this requirement. Among those documents, election officials have recognized that a New Hampshire driver's license or non-driver ID showing the applicant's current domicile address is satisfactory proof of domicile. Election officials have similarly recognized these additional documents as satisfactory proof of domicile:

- A document showing that the applicant owns the place the applicant is domiciled at, such as a deed, property tax bill, or other similar document that has the applicant's name and address; or
- A New Hampshire resident motor vehicle registration, driver's license, or non-driver photo ID showing the applicant's domicile address.

See New Hampshire Election Procedure Manual: 2020-2021, Pgs. 173-174.

You registered to vote in Northwood on October 30, 2009. You completed a voter registration form, and listed [REDACTED] Northwood, New Hampshire as your domicile for voting purposes. On that voter registration form, you wrote that the last place you were registered to vote was in Beverly, Massachusetts. Also on your voter registration form, you listed a New Hampshire driver's license number.

On October 21, 2020, Mr. Chase received an email from Beverly, Massachusetts City Clerk Dixon. She confirmed that you last voted in Beverly in 2013, and were removed from Beverly's voter checklist in 2018.

On January 26, 2021, Investigator Stephen Johnson spoke with Northwood Town Clerk Russo who explained that she was also the tax collector for Northwood. Clerk Russo indicated that you pay property taxes to the Town for [REDACTED]

You also had (and continue to possess) an active New Hampshire driver's license at the time of your voter registration in 2009. On your driver's license, [REDACTED] is listed as your address. Investigator Johnson observed from motor vehicle records that you had surrendered your Massachusetts driver's license. You also has registered your vehicle using your New Hampshire address.

On January 27, 2021, Investigator Johnson spoke with you. During the phone call, you confirmed that you are domiciled at [REDACTED] in Northwood. You indicated that you own the property located at this address and pay its property taxes. You said that you had obtained your New Hampshire driver's license long before registering to vote in Northwood in 2009. With respect to the property in Beverly, Massachusetts, you explained that residence is owned by your wife, who continues to live there.

In this case, you not only possessed a New Hampshire driver's license during the September 2020 State Primary, but had one before your voter registration in 2009.

Furthermore, you have relinquished your Massachusetts driver's license. Motor vehicle records confirm that you have a vehicle registered at [REDACTED] in Northwood.

This Office also received confirmation from the Northwood Town Clerk that you own the property located at [REDACTED] and have continued to pay taxes for it.

In light of the evidence routinely accepted by election officials as satisfactory proof of domicile, and based on the forgoing, this Office concludes that you are in fact domiciled at [REDACTED] in Northwood, New Hampshire. We further conclude that you were lawfully domiciled and properly voted in Northwood during the 2020 September State Primary election. This Office notes further that you only voted in New Hampshire during both the 2020 State Primary and November General elections.

However, in the course of this investigation this Office reviewed your voting history in both New Hampshire and Massachusetts. Records from New Hampshire and Massachusetts reveal that you voted in both states during the November 2, 2010 and November 6, 2012 General Elections. You also did not contest the fact to Investigator Johnson that you had voted in New Hampshire and Massachusetts during both of these elections. After acknowledging this conduct, you assured Investigator Johnson that you would not vote in both states again.

RSA 659:34-a states –

A person is guilty of a class B felony if, at any election, such person knowingly checks in at the checklist and casts a New Hampshire ballot on which one or more federal or statewide offices or statewide questions are listed if the person also casts a ballot in the same election year in any election held in any other state or territory of the United States where one or more federal or statewide offices or statewide questions are listed.

This matter was not referred to this Office until October 7, 2020. RSA 625:8 sets the statute of limitations on a class B felony at 6 years. In light of our analysis above, the evidence establishes that you have been domiciled in New Hampshire since approximately 2009, and as a result, any tolling provision to the statute of limitations under RSA 625:8 would not apply. Therefore, the statute of limitations on this violation has expired. Any qualifying misdemeanor, which carries a one year statute of limitations under RSA 659:34, has also expired. See RSA 625:8, I(c).

Please be advised and be aware that your conduct would have constituted a felony violation of RSA 659:34-a.

Pursuant to Part I, article 11 of the New Hampshire Constitution, RSA 659:34-a, and based upon the investigation conducted by our office, you are hereby ordered to **Cease and Desist from voting in more than one state**. Failure to comply with this

000020

Cease and Desist Order may result in this office pursuing criminal or civil enforcement actions

Cease and Desist Order Issued

By Authority of:

Jane E. Young
Deputy Attorney General



Nicholas A. Chong Yen
Assistant Attorney General
(603) 271-3650
nicholas.chongyen@doj.nh.gov

cc: Northwood Moderator Tom Chase
Northwood Supervisors of the Checklist
Northwood Town Clerk

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

~~GORDON J. MACDONALD~~
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

March 24, 2021

Brad Roscoe, Moderator
Town of Chesterfield
[REDACTED]
Chesterfield NH 03443

Re: Town of Chesterfield, Election Review and Follow-Up (2020145984)

Dear Moderator Roscoe:

Pursuant to our email exchange on November 12 and 13, 2020, I am including some resources regarding the one4all accessible voting tablet, which you may find helpful.

- Section: 659:20 Assistance in Voting. - This statute covers the process of a voter who requests assistance in marking his or her ballot. An assistant may be a person of the voter's choice, provided it is not the voter's employer or union official.
- Election Procedure Manual - 2020 - Pgs. 86, 137, and 138 have a brief overview of the one4all system and applicable statutes.
- ElectionNet - If you go into ElectionNet, click on "Help," then click on "Instructions." There is a PDF titled "2020 - Accessible Voting System Instructions NEW 10-2020." There is also a PDF titled "2020 - Accessible Voting System Quick Set-up and Troubleshooting Guide," which may also prove helpful.

This matter is closed. Please feel free to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Nicholas A. Chong Yen".

Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
(603) 271-3650
nicholas.chongyen@doj.nh.gov

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

~~GORDON J. MACDONALD~~
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

March 24, 2021

Ashley Marcoux
New Hampshire Young Democrats
105 North State Street
Concord, NH 03301

Re: New Hampshire Young Democrats, Alleged Illegal Campaign Activity
(2021148024)

Dear Ms. Marcoux:

On March 12, 2021, this Office received a complaint about a post card that had been mailed to residents in the Town of Bow, prior to its March 9, 2021 town election. The post card was in support of selectboard candidate Jeff Levesque, and indicated that it was “[p]aid for by the New Hampshire Young Democrats. Ashley Marcoux, Chair.” The complaint alleged that the post card was misleading and confusing because it listed the date of Bow’s town election as February 9, 2021 instead of March 9, 2021 on the back of the post card. After careful review of this complaint, we conclude that no violation of New Hampshire’s election laws has occurred.

Displayed prominently on the front-side of the post card is the correct date of the Bow town election: March 9. On the backside of the post card is similarly displayed a prominent message to “Vote Jeff Levesque for Selectman on March 9.” The erroneous February 9 date, only appeared once.

We understand from Selectman Matthew Poulin, a candidate for selectboard, that two voters had approached him at the polling place during the March 9, 2021 town election and pointed out the error on the post card. Selectman Bruce Martin also contacted this Office, to report that some people similarly approached him at the polling place on Election Day, concerned about the date error.

On March 12, 2021, you spoke with Chief Investigator Richard Tracy. You confirmed that the New Hampshire Young Democrats were responsible for this post card. When Investigator Tracy pointed out the error on the backside of the post card, you indicated that you were not aware of it, but apologized for the incorrect date being printed.

000023

This Office has not received any evidence to suggest that the date error on this post card caused any voter in Bow to refrain from voting during the March 9, 2021 town election. Furthermore, the incorrect date only appeared once on the post card, while the correct date was listed twice and displayed prominently on both the front and back of the post card. Finally, given the content of this post card, it is clear that it was mailed after February 9, 2021, and would not have been soliciting support for a past election.

Based on the forgoing, we conclude that no violation of New Hampshire's election law has occurred. Nonetheless, accuracy of information within political advertising is important. Failure to maintain such accuracy could lead to voter confusion. As a result, in the future, the New Hampshire Young Democrats must ensure that its publications are appropriately reviewed and proofread before release to prevent such errors from occurring again.

This matter is closed. Please feel free to contact me should you have any questions.

Sincerely,



Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
(603) 271-3650
nicholas.chongyen@doj.nh.gov

cc: Matthew Poulin, Town of Bow Selectman
Town of Bow Selectboard

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

~~GORDON J. MACDONALD~~
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

March 24, 2021

Daniel Richards
Global Rescue, LLC

Re: Hanover High School, Alleged Illegal Campaign Activity (2021147881)

Dear Mr. Richards:

On March 3, 2021, this Office received your complaint against the Hanover High School, specifically as it was being used by School Administrative Unit 70 (SAU 70) to host its recent election on March 2, 2021. You alleged two violations of New Hampshire's election laws: 1. for displaying electioneering materials, specifically a "Black Lives Matter" (BLM) sign where ballots were being cast; and 2. electioneering by public employees, specifically the school teachers and administrators responsible for publishing the BLM sign. After careful consideration, we have concluded that neither the Hanover High School nor SAU 70 violated New Hampshire's election laws.

The two statutes applicable to your complaint are RSA 659:43 – Electioneering at the Polling Place, and RSA 659:44-a – Electioneering by Public Employees.

RSA 659:43 prohibits electioneering from occurring within the polling place building. RSA 652:16-h defines electioneering as "visibly displaying or audibly disseminating information that a reasonable person would believe explicitly advocates for or against any candidate, political party, or measure being voted."(emphasis added).

The United States Supreme Court has held that a state may regulate speech inside the polling place "as long as the regulation on speech is reasonable and not an effort to suppress expression merely because public officials oppose the speaker's view." *Minn. Voters All. v. Mansky*, 138 S. Ct. 1876, 1885 (2018).

In light of the holding in *Mansky*, the *New Hampshire Election Procedure Manual: 2020-2021*, offers specific guidance on how RSA 659:43 must be applied. The guidance states that the prohibition applies only to those candidate, issues, or parties that appear on the ballot for that election. *New Hampshire Election Procedure Manual: 2020-2021*, Pg. 249. As such, the manual

000025

offers examples of language that may appear on a political sign that would trigger the prohibition under RSA 659:43:

- "Vote for candidate name (or party);"
- "Vote against candidate name (or party);"
- "Vote yes on 1;"
- "Vote no on 2;"
- A picture of a candidate;
- A candidate's name; or
- An uncommon logo associated with a candidate

New Hampshire Election Procedure Manual: 2020-2021, Pg. 249.

In this case, the BLM sign was displayed toward the exterior of the school building in one of its classroom windows. It does not expressly advocate for a particular candidate or measure, and certainly not any of the candidates or measures that were on the SAU 70 ballot. As the link in your complaint noted, BLM is a project of "ideological and political intervention," not specifically attributable nor beholden to any particular party or candidate.¹

<https://blacklivesmatter.com/herstory/>

Therefore, we conclude that the display of this BLM sign at the Hanover High School would not trigger the prohibition against electioneering contemplated by RSA 659:43.

With respect to RSA 659:44-a, the law prohibits electioneering by public employees. RSA 659:44-a defines "electioneer" as acting in "any way specifically designed to influence the vote of a voter on any question or office." While teachers and certain school administrators may fall within the definition of "public employees" under RSA 273-A:1, IX, similar to the analysis under RSA 659:43 above, the BLM sign would not constitute "electioneering" under 659:44-a.

Based on the forgoing, we have determined that the displayed BLM sign at the Hanover High School during the March 2, 2021 SAU 70 election did not constitute a violation of New Hampshire's election laws.

This matter is closed.

Sincerely,



Nicholas A. Chong Yen
Assistant Attorney General

¹ In a report issued by the United States Office of Special Counsel, it was concluded that "using BLM terminology, without more, is not political activity. BLMGN [Black Lives Matter Global Network] does not meet any of the criteria for classification as a partisan political group. Therefore, BLMGN is not a partisan political group, and [federal] employees are not prohibited from wearing or displaying BLMGN paraphernalia in the workplace." <https://www.usgs.gov/media/files/office-special-counsel-adojsory-black-fives-matter-and-hatch>

Daniel Richards
Page 3 of 3

Election Law Unit
(603) 271-3650
nicholas.chongyen@doj.nh.gov

cc: Frank Edelblut, Commissioner of Education
Jay Badams, Superintendent of School Administrative Unit 70

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

~~GORDON J. MACDONALD~~
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

March 26, 2021

Kevin Shelton, Administrator
Woodsville Fire District
c/o Donald Smith, Esquire
111 Amherst Street
Manchester, NH 03101

Re: **CEASE AND DESIST ORDER** (2021147820)
Warning for Violation of RSA 659:44-a

Dear Administrator Shelton:

On March 2, 2021, this Office received a complaint alleging that you violated RSA 659:44-a, which prohibits electioneering by a public employee. The complaint alleged you violated this statute by mailing a letter, printed on Woodsville Fire District letterhead, and directing the reader to: (i) support selectboard candidate Michael Graham; and (ii) vote "NO" on Article #2.

On March 3, 2021, this Office sent a copy of the complaint and the letter in question to you for a response. On March 16, 2021, this Office received a reply from the Woodsville Fire District's counsel, Attorney Donald Smith.

Attorney Smith indicated that you confirmed you did in fact issue the letter in question. At the time you sent this letter, Attorney Smith represented that you were unaware of the prohibition against electioneering by public employees imposed by RSA 659:44-a. Attorney Smith indicated that you are now aware of this law, and understand that you should not have issued the letter.

RSA 659:44-a provides that "[n]o public employee, as defined in RSA 273-A:1, IX, shall electioneer while the in the performance of his or her official duties or use government property, including, but not limited to, telephones, facsimile machines, vehicles, and computers, for electioneering." The statute also defines electioneering as "to act in any way specifically designed to influence the vote of a voter on any question or office." A public employee is defined as "any person employed by a public employer" with some limited exceptions. RSA 273-A:1, IX. Those exceptions are:

- (a) Persons elected by popular vote;

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- (b) Persons appointed to office by the chief executive or legislative body of the public employer;
- (c) Persons whose duties imply a confidential relationship to the public employer; or
- (d) Persons in a probationary or temporary status, or employed seasonally, irregularly or on call. For the purposes of this chapter, however, no employee shall be determined to be in a probationary status who shall have been employed for more than 12 months or who has an individual contract with his employer, nor shall any employee be determined to be in a temporary status solely by reason of the source of funding of the position in which he is employed.

None of those exceptions are applicable in this case. Therefore, we conclude that you are a “public employee” for the purposes of RSA 659:44-a.

RSA 659:44-a defines “electioneer” as acting in “any way specifically designed to influence the vote of a voter on any question or office.”

Given its broad construction, and the potential First Amendment implications associated with this statute’s regulation of speech, this Office will exercise its powers under RSA 7:6-c, authorizing the Attorney General to enforce election laws, to interpret RSA 659:44-a narrowly. Specifically, to construe the term “electioneer” under RSA 659:44-a, in conjunction with the definition of “electioneering” under RSA 652:16-h.

Although the language of RSA 659:44-a appears to have been constructed broadly, interpreting it in conflict with RSA 652:16-h would be in error.¹ The language of RSA 659:44-a was last updated on January 1, 2017. RSA 652:16-h was enacted on January 1, 2020. RSA 652:16-h defines “electioneering” as “visibly displaying or audibly disseminating information that a reasonable person would believe explicitly advocates for or against any candidate, political party, or measure being voted.” (emphasis added).

“When interpreting two statutes which deal with similar subject matter, we will construe them so that they do not contradict each other, and so that they will lead to reasonable results and effectuate the legislative purpose of the statute. To the extent two statutes conflict, the more specific statute controls over the general.” EnergyNorth Nat. Gas, Inc. v. City of Concord, 164 N.H. 14, 16 (2012).

Therefore, we conclude that in order to qualify as “electioneering” under RSA 659:44-a, the conduct in question must explicitly advocate for a question or office being voted upon consistent with RSA 652:16-h.

In this case, your letter contains several requests asked of the reader. Applicable for consideration here are the following messages²:

¹ See also Stenson v. McLaughlin, 2001 WL 1033614 (D.N.H. Aug. 24, 2001) (Holding that statutes can regulate political communications without violating the First Amendment “only if the communications used explicit words of advocacy of election or defeat of a candidate.”).

² The second paragraph of the letter alleges the Town of Haverhill’s Selectboard engaged in conduct that “amounts to extortion,” by requiring precincts to turn over their fire department equipment in order to obtain funding. While it

1. "[W]e ask you to support Michael Graham for Selectman."
2. "[W]e ask that you vote NO on article #2 at the Town Meeting."

With respect to the first message, it is clearly directing the reader to support candidate Michael Graham and vote for him for the office of selectman. Therefore, we conclude this statement qualifies as electioneering under RSA 659:44-a.

With respect to the second message, it similarly explicitly advocates for the failure of article #2, by directing the reader to vote "NO" to its passage. Therefore, we conclude this statement qualifies as electioneering under RSA 659:44-a.

Based on the forgoing, we have determined that the letter you issued upon the Woodsville Fire District's letterhead constitute impermissible electioneering by a public employee.

Pursuant to RSA 659:44-a and based upon the investigation conducted by our office, you, the Woodsville Fire District, and its employees are hereby ordered to **Cease and Desist from engaging in further electioneering by public employees**. Failure to do so could constitute a violation of RSA 659:44-a and result in further enforcement action by this Office.

In addition, the Woodsville Fire District shall submit to this Office a remediation plan, outlining the steps the District will take to educate current and future personnel on the prohibition of RSA 659:44-a as well as appropriate protocols to prohibit electioneering by public employees in the future. We request that your remediation plan be sent to us within 30 days of the date of this letter.

This matter is closed upon receipt within 30 days of an acceptable remediation plan. Please contact me if you have any questions.

Cease and Desist Order Issued

By Authority of:

Jane E. Young
Deputy Attorney General



Nicholas A. Chong Yen
Assistant Attorney General
(603) 271-3650
nicholas.chongyen@doj.nh.gov

may not constitute "electioneering" as outlined above, such characterizations by local officials using official letterhead may give the impression of impropriety.

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Woodsville Fire District
4900 Dartmouth College Highway
Woodsville, NH 03785
Phone 603-747-2442
Fax 603-747-2413
kevinshelton@woodsville.org
Equal Opportunity Employer & Equal Opportunity Provider

April 6, 2021

Nicholas A. Chong Yen
Assistant Attorney General
Department of Justice
33 Capitol Street
Concord, NH 03301-6397

Re: Cease and Desist Order (2021147820)
Warning for Violation of RSA 659:44-a

Dear Mr. Chong Yen,

The Woodsville Fire District's remediation plan for educating our present employees will include the following steps.

1. The Woodsville Fire Commissioners will state formally in a policy, that will be part of the employee handbook, that electioneering is prohibited as a public employee while in the performance of his or her official duties or use government property, including, but not limited to, telephones, facsimile machines, vehicles, and computers to electioneer. The policy, (attached) will define that electioneer means to act in any way specifically designed to influence the vote of a voter on any question or office.
2. The Administrator will meet with all Supervisors of the Woodsville District to explain the policy and answer questions. Each Supervisor will then meet with all direct reports no later than April 30, 2021 and review the policy with all employees and have them sign, acknowledging receipt and understanding.
3. All new employees will receive an employee handbook at orientation, during which time this policy will be reviewed and signed, acknowledging receipt and understanding.

Please do not hesitate to contact me if you have questions on the plan. I look forward to your acceptance of this, as requested, and closure to the matter.

Respectfully,


Kevin Shelton
Administrator

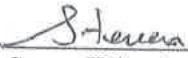
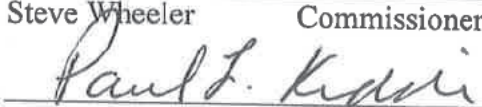
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Electioneering by Public Employees of The Woodsville Fire District

All employees of the Woodsville Fire District, to include Woodsville Water and Light, EMS, Fire Department, and / or Highway are prohibited from electioneering as a public employee while in the performance of your official duties or and are also prohibited to use government property, including, but not limited to, telephones, facsimile machines, vehicles, and computers to electioneer.

The definition of electioneering means to act in any way specifically designed to influence the vote of a voter on any question or office.

At no time should any employee of the Woodsville Fire District electioneer. Any employee who feels that electioneering may have occurred, should contact their immediate Supervisor, Administrator, and / or Commissioners of the Woodsville Fire District. If an employee is found to be in violation of this policy, they will be subject to the Discipline and Dismissal section of the Employee Handbook.

Employee Signature		Date
	Steve Wheeler	2024
	Paul Kidder	2022
	Commissioner	2022

From: [ChongYen, Nicholas](#)
To: kevinshelton@woodsville.org
Cc: [Donald L. Smith](#); [Edwards, Anne](#); [Boffetti, James](#); [Tekin, Jill](#)
Subject: Woodsville Fire District Remediation Plan
Date: Tuesday, April 13, 2021 9:00:35 AM

Good morning Administrator Shelton,
This Office is in receipt of the Woodsville Fire District's remediation plan, dated April 6, 2021, and sent in response to our cease and desist order.
We have reviewed the remediation plan and it is acceptable. This matter is closed.

Thank you,
Nick
Nicholas Chong Yen
Assistant Attorney General
New Hampshire Department of Justice
33 Capitol Street
Concord, NH 03301
Tel. (603) 271-3650
Fax (603) 271-2110

*****STATEMENT OF CONFIDENTIALITY*****

The information contained in this electronic message and any attachments to this message may contain confidential or privileged information, and is intended for the exclusive viewing of the addressee(s). If you are not the intended recipient, be aware that the retention, dissemination, distribution, disclosure, or copying of this transmission is prohibited. If you are neither the intended recipient(s), nor a person responsible for the delivery of this communication to the intended recipient(s), you are hereby notified that any retention, dissemination, distribution or copying of this communication is strictly prohibited. Please notify the Attorney General's Office immediately at (603) 271-3671 or reply to justice@doj.nh.gov if you are not the intended recipient, and then immediately delete all copies of this message and any attachments.

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

~~GORDON J. MACDONALD~~
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

March 26, 2021

George Davenport

[REDACTED]
Stoddard, NH 03464

Re: Stoddard New Hampshire Democrats, Alleged Illegal Campaign Activity
(2020145199)

Dear Mr. Davenport:

On August 31, 2020 this Office received your complaint dated August 28, 2020, against the Stoddard New Hampshire Democrats, Alfrieda Englund, and Joyce Healy. Specifically, you alleged the following violations of New Hampshire's election laws: (1) violation of RSA 657:4 for using a return address label that was different than the entity responsible for the mailing; and (2) violation of RSA 664:2 and 664:14 for failing to provide the name and address of the entity responsible for the mailing as well as failing to write a disclaimer that the mailing was not authorized by any candidate. After careful review of this matter, we conclude that there has been no violation of New Hampshire's election laws.

RSA 657:4, II(a) states that --

Any person, other than the city or town clerk or the secretary of state, that publishes, mails, or distributes in any manner any written communication that contains a form or post card which a reasonable person would consider as intended to be used by the recipient of the communication to submit a request for an absentee ballot shall identify who is publishing, mailing, or distributing the communication, and attach a copy of the form prepared by the secretary of state pursuant to paragraph I of this section to the communication or include in the communication a complete facsimile of the form prepared by the secretary of state pursuant to paragraph I of this section.

This law does not require a mailing containing an absentee ballot application form to display identifying information in a particular place among the mailed papers. Nor does it state

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that the first thing the reader must see on the mailing is the identity of the person(s) or entity responsible for it.

In this case, the mailing did contain a letter that clearly states "This mailing paid for by the Stoddard NH Democrats." This Office concludes that this statement satisfies the identification requirement under RSA 657:4, II(a).

With respect to RSA 664:14, the identification requirements under this law apply to political advertising.

RSA 664:2, VI defines "political advertising" as any communication, including buttons or printed material attached to motor vehicles, which expressly or implicitly advocates the success or defeat of any party, measure or person at any election.

With respect to implicit advocacy, as referenced in RSA 664:2 and implemented through RSA 664:14, the United States District Court for New Hampshire held that the term "implicitly" was unconstitutional. Stenson v. McLaughlin, No. CIV. 00-514-JD, 2001 WL 1033614, at *7 (D.N.H. Aug. 24, 2001). As a result, the Court struck the term "implicitly" from RSA 664:2, VI and prohibited its use when enforcing RSA 664:14.

The mailer you provided from the Stoddard NH Democrats contains the following: (1) letter dated August 2020 from the Stoddard NH Democrats; (2) an "Application for State Election Absentee Ballot-RSA 657:4"; and (3) the envelope containing the two previously mentioned documents.

The absentee ballot application form is a complete facsimile of the form prepared by the Secretary of State and is in compliance with the requirements of RSA 657:4, II(a). Additionally, this application does not contain any statements that would constitute explicit advocacy for a particular candidate or measure.

The letter written by the Stoddard NH Democrats identifies the dates of the upcoming elections, and provides information on how to vote absentee during the public health crisis caused by the coronavirus. It does not explicitly advocate for nor direct the reader to vote for a particular candidate or measure. The fact that it was sent by an entity belonging to a particular party does not by itself make the mailing a form of explicit advocacy.

Based on the foregoing, we conclude that this mailing would not constitute "political advertising" within the meaning of RSA 664:2, VI. Therefore, the mailing from the Stoddard NH Democrats would not trigger the identification requirements under RSA 664:14. Nonetheless, we note that the mailing does include the aforementioned statement identifying who sent it, as well as contact information for the two chair members of the Stoddard NH Democrats.

This matter is now closed. Please feel free to contact me if you have any questions.

George Davenport
Page 3 of 3

Sincerely,



Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
(603) 271-3650
nicholas.chongyen@doj.nh.gov

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
SUPERIOR COURT

Rockingham Superior Court
Rockingham Cty Courthouse/PO Box 1258
Kingston NH 03848-1258

Telephone: 1-855-212-1234
TTY/TDD Relay: (800) 735-2964
http://www.courts.state.nh.us

RETURN FROM SUPERIOR COURT – HOUSE OF CORRECTIONS

Case Name: **State v. Laurence Kahn**
Case Number: **218-2021-CR-00113**
Name: **Laurence Kahn, [REDACTED]** Londonderry NH 03053
DOB: [REDACTED]
Charging document: Complaint

Offense: Vote in More than 1 State GOC: Charge ID: 1818718C RSA: 659:34-a Date of Offense: October 08, 2016

Disposition: Guilty/Chargeable By: Plea
A finding of GUILTY/CHARGEABLE is entered.
Conviction: Felony
Sentence: see attached

May 13, 2021 _____ Hon. Martin P. Honigberg _____ Jennifer M. Haggar _____
Date Presiding Justice Clerk of Court

MITTIMUS

In accordance with this sentence, the Sheriff is ordered to deliver the defendant to the **Rockingham County House of Corrections**. Said institution is required to receive the Defendant and detain him/her until the Term of Confinement has expired or s/he is otherwise discharged by due course of law.

Attest: _____
Clerk of Court

SHERIFF'S RETURN

I DELIVERED THE DEFENDANT TO THE **Rockingham County House of Corrections** and gave a copy of this order to the Superintendent.

Date Sheriff
J-ONE: State Police DMV
C: Dept. of Corrections Offender Records Sheriff Office of Cost Containment
 Prosecutor Nicholas Austin Chong Yen, ESQ Defendant Defense Attorney Peter Douglas Anderson, ESQ
 Sex Offender Registry Other _____ _____ Dist Div. _____

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
http://www.courts.state.nh.us

Court Name: Rockingham Superior Court
Case Name: State v. Laurence Kahn
Case Number: 218-2021-CR-00113 Charge ID Number: 1818718C
(if known)

HOUSE OF CORRECTIONS SENTENCE

Plea/ Verdict Guilty	
Crime: Vote in More than 1 State	Date of Crime: 11/08/2016

A finding of GUILTY/TRUE is entered.

CONVICTION

This conviction is for a **Felony**.

- A. The defendant has been convicted of Domestic Violence contrary to RSA 631:2-b or of an offense recorded as Domestic Violence. See attached Domestic Violence Sentencing Addendum.
- B. The defendant has been convicted of a misdemeanor, other than RSA 631:2-b or an offense recorded as Domestic Violence, which includes as an element of the offense, the use or attempted use of physical force or threatened use of a deadly weapon, and the defendant's relationship to the victim is:

OR The defendant is cohabiting or cohabited with victim as a _____

OR A person similarly situated to _____

CONFINEMENT

- A. The defendant is sentenced to the House of Corrections for a period of 90 days.
Pretrial confinement credit is _____ days.

- B. This sentence is to be served as follows:

- Stand committed Commencing _____
- Consecutive weekends from _____ PM Friday to _____ PM Sunday beginning _____
- All** _____ of the sentence is suspended during good behavior and compliance with all terms and conditions of this order. Any suspended sentence may be imposed after hearing at the request of the State. The suspended sentence begins today and ends 1 years from today or release on charge ID number _____.

_____ of the sentence is deferred for a period of _____.
The Court retains jurisdiction up to and after the deferred period to impose or terminate the sentence or to suspend or further defer the sentence for an additional period of _____.

Thirty (30) days prior to the expiration of the deferred period, the defendant may petition the Court to show cause why the deferred commitment should not be imposed. Failure to petition within the prescribed time will result in the immediate issuance of a warrant for the defendant's arrest.

Other: _____

- C. The sentence is consecutive to case number and charge ID _____
 concurrent with case number and charge ID _____

- D. The court recommends to the county correctional authority:

- Work release consistent with administrative regulations.
 Drug and alcohol treatment and counseling.
 Sexual offender program.

Case Name: State v. Laurence Kahn

Case Number: 218-2021-CR-00113

HOUSE OF CORRECTIONS SENTENCE

If required by statute or Department of Corrections policies and procedures, the defendant shall provide a sample for DNA analysis.

PROBATION

- A. The defendant is placed on probation for a period of _____ year(s), upon the usual terms of probation and any special terms of probation determined by the probation/parole officer.
Effective: Forthwith Upon release from _____
The defendant is ordered to report immediately, or immediately upon release, to the nearest Probation/Parole Field Office.
- B. Subject to the provisions of RSA 504-A:4, III, the probation/parole officer is granted the authority to impose a jail sentence of 1 to 7 days in response to a violation of a condition of probation, not to exceed a total of 30 days during the probationary period.

Violation of probation or any of the terms of this sentence may result in revocation of probation and imposition of any sentence within the legal limits for the underlying offense.

FINANCIAL OBLIGATIONS

A. **Fines and Fees:**

Fine of \$ 4,000.00, plus a statutory penalty assessment of \$ 960.00 to be paid:

Today

By _____

Through the Department of Corrections as directed by the Probation/Parole Officer. A 10 % service charge is assessed by DOC for the collection of fines and fees, other than supervision fees.

\$ _____ of the fine and \$ _____ of the penalty assessment is suspended for _____ year(s).

A \$25.00 fee is assessed in each case file when a fine is paid on a date later than sentencing.

B. **Restitution:**

The defendant shall pay restitution of \$ _____ to _____

Restitution shall be paid through the Department of Corrections as directed by the Probation/Parole Officer. A 17% administrative fee is assessed for the collection of restitution.

At the request of the defendant or the Department of Corrections, a hearing may be scheduled on the amount or method of payment of restitution.

Restitution is not ordered because: _____

C. **Appointed Counsel: NOTE:** Financial Obligations, Section C is NOT a term and condition of the sentence.

The Court finds that the defendant has the ability to pay:

counsel fees and expenses in the amount of \$ _____

payable through _____ in the amount of \$ _____ per month.

The Court finds that the defendant has no ability to pay counsel fees and expenses.

Case Name: State v. Laurence Kahn

Case Number: 218-2021-CR-00113

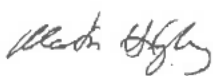
HOUSE OF CORRECTIONS SENTENCE

OTHER CONDITIONS

- A. The defendant is to participate meaningfully and complete any counseling, treatment and educational programs as directed by the correctional authority or Probation/Parole Officer.
- B. The defendant's _____ in New Hampshire is revoked for a period of _____ effective _____.
- C. Under the direction of the Probation/Parole Officer, the defendant shall tour the _____.
- D. The defendant shall perform _____ hours of community service and provide proof to _____ within _____ of today's date.
- E. The defendant is ordered to have no contact with _____ either directly or indirectly, including but not limited to contact in-person, by mail, phone, e-mail, text message, social networking sites and/or third parties.
- F. Law enforcement agencies may destroy the evidence return evidence to its rightful owner.
- G. The defendant is ordered to be of good behavior and comply with all the terms of this sentence.
- I. Other:

Pursuant to Part I, Article 11 of the New Hampshire Constitution the defendant shall no longer have the right to vote in New Hampshire under the Constitution of this State.

For Court Use Only


Honorable Martin P. Honigberg
May 13, 2021

**THE STATE OF NEW HAMPSHIRE
COMPLAINT**

Case Number: 18-1000-1301 Charge ID: 18189196

Case Number:

<input type="checkbox"/> VIOLATION	MISDEMEANOR	<input type="checkbox"/> CLASS A	<input type="checkbox"/> CLASS B	<input type="checkbox"/> UNCLASSIFIED (non-person)
	FELONY	<input type="checkbox"/> CLASS A	<input checked="" type="checkbox"/> CLASS B	<input type="checkbox"/> UNCLASSIFIED (non-person)

You are to appear at the: **10th Circuit - District Division - Derry** Court,
 Address: **10 Courthouse Lane Derry NH 03038** County: **Rockingham County**
 Time: _____ Date: _____

Under penalty of law to answer to a complaint charging you with the following offense:

THE UNDERSIGNED COMPLAINS THAT: PLEASE PRINT

<u>Kahn</u> Last Name	<u>Laurence</u> First Name	<u>Gartner</u> Middle
_____	<u>Londonderry</u> City	<u>NH</u> State
_____	<u>03053</u> Zip	

Sex	Race	Height	Weight	Eye Color	Hair Color
_____	_____	_____	_____	_____	_____

DOB	License #:	OP License State
_____	_____	_____

COMM. VEH. COMM. DR. LIC. HAZ. MAT. 16+PASSENGER

AT: **295 Mammoth Road, Londonderry, NH**

On **11/08/2016** at **_____** in **Rockingham County NH**, did commit the offense of:
RSA Name: Voting in More than One State Prohibited

Contrary to RSA: **659:34-a**

Inchoate:
 (Sentence Enhancer):

And the laws of New Hampshire for which the defendant should be held to answer, in that the defendant did:
 knowingly check in at the checkist in Londonderry, New Hampshire and cast a New Hampshire ballot on which one or more federal or statewide offices or statewide questions are listed and also cast a ballot in the same election year in 2016 in Michigan, where one or more federal or statewide offices or statewide questions are listed.

**Plea of Guilty
Entered May 13, 2021**


 Honorable Martin P. Honigberg

against the peace and dignity of the State.

SERVED IN HAND

_____	Nicholas Chong Yen #268425	NH Attorney General
Complainant Signature	Complainant Printed Name	Complainant Dept.

Making a false statement on this complaint may result in criminal prosecution.
 Oath below not required for police officers unless complaint charges class A misdemeanor or felony (RSA 692-A:7.1).
 Personally appeared the above named complainant and made oath that the above complaint by him/her subscribed is, in his/her belief, true.

_____	_____
Date	Justice of the Peace

Charge ID:

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOHN M. FORMELLA
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

June 7, 2021

Town of Swanzev Selectboard
620 Old Homestead Highway
P.O. Box 10009
Swanzev, NH 03446

Re: Town of Swanzev Polling Place Traffic (2020145934)

Dear Swanzev Selectboard:

In accordance with RSA 7:6-c, the Attorney General is charged with enforcing New Hampshire's election laws. During the November 3, 2020 general election, polling place inspectors visited 98% of New Hampshire's polling places, inspecting 302 out of 309 total locations.

During the 2020 general election, this Office received reports from its polling place inspectors about complaints regarding the wait times at Swanzev's polling place. The inspector assigned to Swanzev's polling place described long lines, with voters waiting over an hour to vote. The lines were so long that a Swanzev voter approached our polling place inspector assigned to Keene, and asked if the voter could vote there instead.

The Swanzev Police Department was not contacted by election officials until the afternoon to help direct vehicular traffic, and ease congestion in the polling place's parking lot. By 4:45PM, this Office was notified that these long lines and significant wait times persisted throughout the day.¹ Our inspector confirmed this, having been present at the Swanzev polling place from 3:45PM-7:30PM, with the longest wait time reported by some voters as being one hour and fifteen minutes. The shortest wait time reported during this period was at 5:00PM, and was forty-five minutes.

In addition, we understand that in order to enter the voting area, voters had to line up in a narrow hallway. During the 2020 general election, two lines stretched down this hallway, one for

¹ In addition, on September 1, 2020, this Office received a complaint about the polling location being inside of the Christian Life Fellowship Church. The complainant alleged that given the comments by the church's pastor on social media, voters felt unwelcomed and uncomfortable entering this building in order to vote. On September 11, 2020, I spoke with Town Administrator Michael Branley, who stated that town officials were actively reviewing the concerns raised by this complainant to identify potential solutions.

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voters checking-in and another for voters registering to vote. Given the public health crisis, with one of the protective health measures being social distancing, we also received a complaint about voters being in close proximity to one another while waiting at the polling place.

The inspection checklist from the 2020 general election identified the below concerns. Copies of both checklists are enclosed.

1. Complaints from voters of a narrow hallway serving as both the entrance and the exit for the polling place;
2. There were sufficient parking spots, but insufficient space for vehicles to enter causing crowding, and leading to some voters parking on the street;
3. The line management caused an entire line of voters who were checking-in to have to wait until one of two officials assigned to their section of the alphabet became available. Lines were unable to form at the table assigned to a voter's corresponding section of the alphabet. This meant that even if a check-in table for a voter's alphabet group was available, they would not know until they were at the front of the line. Eventually, officials began calling out the availability of their given alphabet section so those qualifying voters waiting could immediately walk to the front of the line;
4. Registration took place in a small room adjacent to the voter check-in line. This room was not clearly marked;
5. Only one of two doors at the entrance/exit was opened, causing voters leaving and entering to take turns at the door.

We understand that the November 3, 2020 general election presented unprecedented challenges, a high degree of voter engagement, and increased voter turnout. Indeed, in reviewing the inspection checklist from the 2020 September primary election, wait times for obtaining a ballot during this election was less than five minutes. Similarly, registering to vote during this election took less than five minutes.

However, pursuant to RSA 658:9, the Selectboard is responsible for designating and equipping the town's polling place.

RSA 658:9, I states in relevant part –

“The selectmen of each town and ward shall provide for a suitable place in which to hold state elections and shall see that the same is warmed, lighted, and furnished with proper supplies and conveniences. [...] Each place in which state elections are held shall be easily accessible as provided in RSA 658:9-a to all persons including persons with disabilities and elderly persons who are otherwise qualified to vote in the choice of any officer or officers to be elected or upon any question submitted at such election.”

Part I, Article 11 of the New Hampshire Constitution provides that “polling places shall be easily accessible to all persons[.]” Traffic delays – both pedestrian and vehicular – such as those observed and experienced during the 2020 general election hinder voters' access to the

Town of Swanzey
Page 3 of 3

polls and show that your polling place is not "easily accessible to all persons." Recurring traffic delays of this nature are a good indicator that the Town needs to establish additional polling places for State general elections or that the polling place is no longer suitable for the Town. See RSA 658:10.

We are requesting the Town of Swanzey initiate a corrective action plan to address this issue prior to the next State Election and provide a copy of the plan to this Office within 6 months after receipt of this letter.

Please contact me if you have any questions.

Sincerely,



Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
(603) 271-3650
nicholas.chongyen@doj.nh.gov

Enclosure

cc: David Scanlan, Deputy Secretary of State
Michael Branley, Swanzey Town Administrator

000044

From: [Town Clerk](#)
To: [Matteson, Myles](#)
Subject: FW: Follow-up from the Attorney General's Office
Date: Thursday, April 28, 2022 1:43:09 PM

EXTERNAL: Do not open attachments or click on links unless you recognize and trust the sender.

From: Town Clerk
Sent: Thursday, April 28, 2022 11:25 AM
To: Michael T. Branley <mbranley@swanzeynh.gov>
Subject: RE: Follow-up from the Attorney General's Office

Good Morning Miles,
Below is how we plan to address the concerns that were raised after the 2020 general election. The numbers correspond with the document that you sent.

1. The new voting location has a separate entrance and exit for voters.
2. Voting will take place at the Monadnock Regional High School which provides ample parking spaces as well as handicap spaces to accommodate all voters.
3. The set-up for the alphabetical voter check-in stations are more spread out more allowing greater visibility. We will also have people helping the voters get to their appropriate check-in station.
4. Registration at the new location is in the same space as the voter check-in and the voting booths. At the entrance we will also have someone there to assistance and direct the voters to where they need to go.
5. With having a separate entrance and exit this will not be an issue moving forward.

If you have any questions or concerns please let us know.

Thank-you

Heather Estrella
Town Clerk

Town of Swanzey
PO Box 10009
Swanzey, NH 03446
603-352-7411 x101
www.swanzeynh.gov

From: Matteson, Myles [<mailto:Myles.B.Matteson@doj.nh.gov>]
Sent: Wednesday, April 27, 2022 11:07 AM
To: Town Clerk <townclerk@swanzeynh.gov>
Cc: Tekin, Jill <Jill.Tekin@doj.nh.gov>
Subject: RE: Follow-up from the Attorney General's Office

Heather,

Thank you for the update. We would appreciate a bit more explanation as to how this change will address the concerns identified in our prior letter. Specifically, are all five of the checklist

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items on page two of our letter addressed using this new location? Additionally, what impact will the new location have on traffic management and wait times?

Thank you.

Myles

From: Town Clerk <townclerk@swanzeynh.gov>
Sent: Wednesday, April 20, 2022 2:52 PM
To: Matteson, Myles <Myles.B.Matteson@doj.nh.gov>
Subject: RE: Follow-up from the Attorney General's Office

EXTERNAL: Do not open attachments or click on links unless you recognize and trust the sender.

Hi Myles,
We do not use this voting location anymore, the elections will take place at the Monadnock Regional high School gym.

Thank you,

Heather Estrella
Town Clerk

Town of Swanzey
PO Box 10009
Swanzey, NH 03446
603-352-7411 x101
www.swanzeynh.gov

From: Matteson, Myles [<mailto:Myles.B.Matteson@doj.nh.gov>]
Sent: Friday, April 15, 2022 9:15 AM
To: Ashley Patnode <apatnode@swanzeynh.gov>; Town Clerk <townclerk@swanzeynh.gov>
Cc: Tekin, Jill <jill.Tekin@doj.nh.gov>
Subject: Follow-up from the Attorney General's Office

Good morning,

I am writing to request a status on an elections corrective action plan. On June 7, 2021, this Office sent the Selectboard a letter (attached) concerning the Town of Swanzey's polling place. The letter requested the town initiate a corrective action plan to address the identified issues and provide a copy of that plan to our Office with six months.

To date, we do not appear to have received the corrective action plan. Can you please provide an update on when we can expect to receive the plan or direct me to an individual who can respond?

Thanks,

000046

Myles

Myles Matteson
Deputy General Counsel
Attorney General's Office
33 Capitol Street
Concord, NH 03301-6397
Phone: (603) 271-1119
Myles.B.Matteson@doj.nh.gov

STATEMENT OF CONFIDENTIALITY

The information contained in this electronic message and any attachments to this message may contain confidential or privileged information and is intended for the exclusive use of the intended recipient. Please notify the Attorney General's Office immediately at (603) 271-3650 or reply to justice@doj.nh.gov if you are not the intended recipient and destroy all copies of this electronic message and any attachments. Thank you.

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**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOHN M. FORMELLA
ATTORNEY GENERAL



JAMES T. BOFFETTI
DEPUTY ATTORNEY GENERAL

April 28, 2022

Town of Swanzey Selectboard
620 Old Homestead Highway
P.O. Box 10009
Swanzey, NH 03446

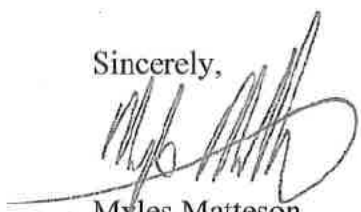
Re: Town of Swanzey Polling Place Traffic

Dear Swanzey Selectboard:

This Office is in receipt of the town's remediation plan described in an email dated April 28, 2022, relative to this matter.

We have reviewed the remediation plan and it is accepted. This matter is closed.

Sincerely,



Myles Matteson
Deputy General Counsel
Attorney General's Office
(603) 271-3650
myles.b.matteson@doj.nh.gov

Enclosure

cc: David Scanlan, Secretary of State
Michael Branley, Swanzey Town Administrator

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**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOHN M. FORMELLA
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

June 7, 2021

Bobbi Hoerter, Moderator
Town of Ashland
20 Highland Street
P.O. Box 517
Ashland NH 03217

Re: Disqualification of Election Officials (2021147989)

Dear Moderator Hoerter:

On March 9, 2021 at 1:35PM, this Office was contacted by former Town of Ashland Selectwoman Kathleen DeWolfe. Ms. DeWolfe called to report that you and the Deputy Moderator told Ms. DeWolfe that she could not be inside the polling place.

This Office was unable to get in contact with you until approximately 4:00 p.m.. During this phone call, you explained your understanding of disqualifying election officials who were candidates on the ballot for the March 9, 2021 town election. You believed that the law stated that if an election official – such as a Selectboard member – was on the ballot, he/she was not permitted inside the polling place.

This Office informed you that you misunderstood the applicable laws, and that election officials who are also candidates, can be permitted inside the polling place, but are precluded from certain duties.

Following the March 9 town election, this Office received a complaint from Selectman Andrew Fitch. His complaint focused on your and the Deputy Town Clerk's refusal to let him inside the polling place. Selectman Fitch's complaint also reported non-specific, "unprofessional and rude behavior" of certain election officials. However, this Office is not in receipt of any information to suggest this alleged conduct would constitute a violation of New Hampshire's election laws.¹

We offer the below information to reinforce your understanding of the applicable statutes.

¹ Selectman Fitch's complaint also raised concerns about certification of the town election. However, this concern is more appropriately addressed by town counsel.

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RSA 658:24 states in relevant part –

“A moderator, clerk, selectman, inspector of election, or supervisor of the checklist whose name appears on a ballot for an elective position, other than the position of an election official, shall be disqualified from the handling of marked ballots and the counting of votes.”

(emphases added).

RSA 659:58 states that –

“Any election official, other than the moderator, who is also a candidate for office shall not be allowed to remain within the guardrail during the counting of votes for an office for which he is a candidate. Such official shall disqualify himself from election duties relating to the tabulation of votes; and the moderator shall appoint an assistant who shall take the same oath as, serve in the same capacity as, and have all the powers of the election official who is disqualified until such official may properly return.”²

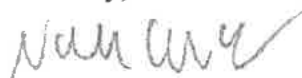
(emphases added).

These statutes show that where an election official is a candidate on the ballot, they are not permitted to: (1) handle marked ballots; or (2) engage in the counting of votes, or be within the guardrail during the counting of votes. Otherwise, these candidates/election officials are permitted inside the polling place.

Additionally, should you have questions on Election Day about the application of certain election laws, this Office operates its election hotline and can be reached at: 1 (866) 868-3703.

This matter is closed. Please feel free to contact me if you have any questions.

Sincerely,



Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
(603) 271-3650
nicholas.chongyen@doj.nh.gov

cc: Andrew Fitch, Town of Ashland Selectman

² An “election official” under RSA 659:58 includes a Selectboard member.

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOHN M. FORMELLA
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

June 7, 2021

Town of Hudson Selectboard
12 School Street
Hudson, NH 03051

Re: Town of Hudson, Polling Place Traffic (2021148327)

Dear Hudson Selectboard:

In accordance with RSA 7:6-c, the Attorney General is charged with enforcing New Hampshire's election laws. During the November 3, 2020 general election, polling place inspectors visited 98% of New Hampshire's polling places, inspecting 302 out of 309 total locations.

During the 2020 general election, the Town of Hudson used the Hudson Memorial School located at 1 Memorial Drive off of Central Street as its polling place. This Office received reports on Election Day of significant vehicular traffic at this polling place, with lines of cars extending from the driveway of the polling place and in both directions on Central Street. This Office's polling place inspector, who was assigned to Hudson, reported that the line of cars waiting to enter the school's parking lot extended west along Central Street to its intersection with Route 3A and east towards Central Street's intersection with Route 111.

The polling place inspector reported he had to wait approximately 45 minutes in order to reach the polling place's parking lot. The inspector also spoke with voters at the polling place about the length of their wait times. One voter reported it took two hours just to drive into the parking lot. Another voter reported that it took one hour and ten minutes to wait in the line of cars, park, and vote.

In addition, there were also reports of a significant number of Hudson residents seeking to register to vote during the 2020 general election. By 5:45 p.m. our inspector observed a line of approximately 150-200 people waiting to register to vote. At approximately 6:30 p.m., the inspector indicated the line for registration had not abated, and wait times of 40-50 minutes continued.¹

¹ In reviewing the inspection checklist from the 2020 general election, it was noted that all newly registered voters were directed into a single check-in line. This check-in line was responsible for the portion of the voter checklist at

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Fortunately, through the efforts of the Hudson Police Department, resources were deployed to better manage vehicular traffic and ease congestion into and out of the polling place. However, throughout the Election Day, significant lines of both voters and vehicles persisted. This is not the first election in which the Town experienced traffic issues.

During the 2020 February Presidential Primary election, the Town used the Hudson Community Center as its polling place. This Office's inspector similarly observed significant access issues during this election. The entrance and exit of the polling place used the same driveway causing traffic jams. Additionally, this polling location also contended with school traffic as classes were still in session.

We understand that the November 3, 2020 general election presented unprecedented challenges, a high degree of voter engagement, and increased voter turnout. Indeed, in reviewing Hudson's inspection checklist from the 2020 September primary election, wait times for obtaining a ballot during this election was two minutes. Similarly, registering to vote during this election took one minute.

The Selectboard is responsible for designating and equipping the town's polling place, pursuant to RSA 658:9.

RSA 658:9, I states in relevant part –

“The selectmen of each town and ward shall provide for a suitable place in which to hold state elections and shall see that the same is warmed, lighted, and furnished with proper supplies and conveniences. [...] Each place in which state elections are held shall be easily accessible as provided in RSA 658:9-a to all persons including persons with disabilities and elderly persons who are otherwise qualified to vote in the choice of any officer or officers to be elected or upon any question submitted at such election.”

Part I, Article 11 of the New Hampshire Constitution provides that “polling places shall be easily accessible to all persons[.]” Traffic delays – both pedestrian and vehicular – such as those observed and experienced during the 2020 general election hinder voters' access to the polls and show that your polling place is not “easily accessible to all persons.” Recurring traffic delays of this nature are a good indicator that the Town needs to establish additional polling places for State general elections or that the polling place is no longer suitable for the Town. *See* RSA 658:10.

The Alpha Voter List for the Town of Hudson shows it has a total of 20,308 registered voters as April 1, 2021.

the end of the alphabet. This meant that this check-in line was exceedingly lengthy, while officials responsible for the checklist at the beginning of the alphabet sat idle.

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The Town has now tried two different locations for its polling place: first the Hudson Community Center, then the Hudson Memorial School, which is a larger space. Ultimately, during a high volume election, both locations have proven inadequate to accommodate the number of voters in Hudson.

We are requesting the Town of Hudson initiate a corrective action plan to address this issue prior to the next State Election and provide a copy of the plan to this Office within six months after receipt of this letter.

Please contact me if you have any questions.

Sincerely,



Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
(603) 271-3650
nicholas.chongyen@doj.nh.gov

cc: David Scanlan, Deputy Secretary of State
William Avery, Chief of Police Hudson Police Department



TOWN OF HUDSON
Office of the Town Administrator
12 School Street
Hudson, New Hampshire 03051



Stephen A. Malizia, Town Administrator – smalizia@hudsonnh.gov – Tel: 603-886-6024 Fax: 603-598-6481

April 18, 2022

Deputy Attorney General Myles Matteson
Attorney Generals' Office
33 Capitol Street
Concord, NH 03301-6397

RE: *Town of Hudson, Polling Place Traffic (2021148327)*

Dear Attorney Matteson,

Please accept this letter as the Town of Hudson's response to the Attorney General's office regarding traffic concerns at the Town of Hudson polling place. The Board of Selectmen have taken the following steps to alleviate both the traffic concerns and the amount of time that Hudson residents spend at the polls.

The Board of Selectmen presented a warrant article on the March 9, 2021 Town Meeting ballot to add an additional polling location to the Town (warrant article #18). The voters approved the addition of an additional polling location by a vote of 2219 in favor to 719 opposed. The Board of Selectmen then engaged the Nashua Regional Planning Commission (NRPC) to review 2020 U.S. Census data to determine two (2), approximately equal, voting wards for the Town. NRPC reviewed the 2020 U.S. Census data and the registered voter database to determine the two (2), approximately equal, voting wards. The Board of Selectmen voted to approve the formation of two voting wards on November 9, 2021. Ward 1 was for all voters south of Ferry Street, Burnham Road and Central Street and Ward 2 was for all voters north of Ferry Street, Burnham Road and Central Street. Ward 1 has approximately 8,028 voters and Ward 2 has approximately 7,638 voters. The Board of Selectmen then voted on December 14, 2021 to establish the Hudson Community Center at 12 Lions Avenue as the Ward 1 Polling Location and Alvirne High School at 200 Derry Road as the Ward 2 Polling location.

Postcards were mailed to every registered voter in Hudson, notifying them of their ward and their voting location. On March 8, 2022, the Town held its annual Town meeting at the two polling locations and Ward 1 had 2,275 voters and Ward 2, had 1,984 voters vote

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at that election. Neither location reported any traffic issues and the election proceeded without any issues.

At this time, the Board of Selectmen believe that the addition of the additional polling location and the assignment of voters to either Ward 1 or Ward 2 has resolved the issue. At this time no further action is contemplated or planned.

Please let me know if you have any questions or need any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read 'S.A. Malizia', written over the word 'Sincerely,'.

Stephen A. Malizia
Town Administrator

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOHN M. FORMELLA
ATTORNEY GENERAL



JAMES T. BOFFETTI
DEPUTY ATTORNEY GENERAL

April 27, 2022

Town of Hudson Selectboard
12 School Street
Hudson, NH 03051

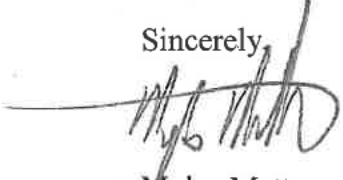
Re: Town of Hudson, Polling Place Traffic

Dear Hudson Selectboard:

This Office is in receipt of the Hudson Town Administrator's remediation plan dated April 18, 2022, relative to this matter.

We have reviewed the remediation plan and it is accepted. This matter is closed.

Sincerely,



Myles Matteson
Deputy General Counsel
Attorney General's Office

cc: David Scanlan, Secretary of State
William Avery, Chief of Police Hudson Police Department

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**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOHN M. FORMELLA
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

June 7, 2021

Dan Backer, Esq.
[REDACTED]

Alexandria, VA 22314

Re: Anonymous Westmoreland Mailer, Alleged Campaign Finance Violation
(2021147920)

Dear Attorney Backer:

On March 2, 2021, this Office received a report from Olivia Belanger, regarding an anonymous mailer sent out to Westmoreland residents. The mailer advocated for the defeat of a warrant article involving the construction of a new fire station in Westmoreland. The advertisement in question was mailed out prior to the March 10, 2021 town election.

One side of the mailer contained four bullet points under the heading "Facts about the Fire House Fraud." The last bulleted point states, "Save Westmoreland; vote ***NO*** on the Fire House Fraud!!!" The other side of the mailer contains three, similar messages: "On Wednesday, March 10th, vote **NO** on the Fire House Fraud!", "Vote **NO** on the Fire House Fraud; Wed, March 10th at the school gym." and "Vote **NO** on the bond and save our beautiful Westmoreland!" Neither side of the mailer contained the name of the person or entity that is responsible for this political advertisement.

This Office was notified that the mailer in question contained false claims and information. This Office does not have enforcement authority over the content of political advertising, nor do any statutes regulate such speech.

On March 8, 2021, you emailed this Office and indicated it was your client who was responsible for the mailer. You declined to identify your client. You asserted the protections of anonymity offered by the *McIntyre* decision and instead offered an affidavit signed by you, in lieu of an interview with your client that would attest to your client's statements.

You explained that your client: "wrote the entire content of the postcard mailing, and paid for the printing and postage entirely from [your] clients [sic] own personal funds. The cost of printing and production was under \$400, and only about 400 pieces were mailed."

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On March 24, 2021, you provided this Office an affidavit on behalf of your client, providing greater detail about the facts pertinent for our review. On April 5, 2021, you provided a notarized copy of this affidavit, which you signed.

Your affidavit indicated that your client spent \$393.61 to produce and distribute this mailer. You asserted that this cost was borne solely by your client and that no one else helped your client pay for the production and distribution of the mailer.

You further asserted that the mailer's language, style, and content were crafted solely by your client. You shared that your client hired a company found on the Internet to mail the mailers. You claim that this company specializes in direct mailing and is based in Brooklyn, New York and that the Brooklyn, New York postal permit displayed on this mailer belongs to this company. You have represented that approximately 350 mailers were sent to Westmoreland residents.

RSA 664:2, VI defines political advertising as any communication, including buttons or printed material attached to motor vehicles, which expressly or implicitly advocates the success or defeat of any party, measure or person at any election.

With respect to implicit advocacy, as referenced in RSA 664:2 and implemented through RSA 664:14, the United States District Court for New Hampshire held that the term "implicitly" was unconstitutional. *Stenson v. McLaughlin*, No. CIV. 00-514-JD, 2001 WL 1033614, at *7 (D.N.H. Aug. 24, 2001). As a result, the Court struck the term "implicitly" from RSA 664:2, VI and prohibited its use when enforcing RSA 664:14.

RSA 664:14 requires all political advertising to be signed at the beginning or end with the names and addresses of the candidates, persons, or entity responsible for it.

In this case, this mailer with its content constitutes explicit advocacy within the meaning of RSA 664:2, VI, because it is directing the reader to vote "No" on a specific warrant article involving the construction of a new fire station. Consequently, this would trigger the identification requirements for political advertising under RSA 664:14.

However, in 1995, the United States Supreme Court found that a "written election-related document...is often a personally crafted statement of a political viewpoint" and as such, "identification of the author against her will is particularly intrusive." *McIntyre v. Ohio*, 514 U.S. 334, 355, 357 (U.S. 1995). The Court held that the First Amendment protects the anonymity of political speech when conducted by an individual. *Id.* at 357. Consistent with *McIntyre*, and based on your sworn affidavit, we conclude that the disclosure requirements in RSA 664:14 are not enforceable against a non-candidate-related individual responsible for designing, creating, and distributing cards in the manner you described.

We caution your client that this is an extremely close question. In the twenty-six years since *McIntyre*, many courts (including one within our federal circuit) have narrowed its application and upheld advertising disclosure requirements, even against individuals. *See Bailey*

Dan Backer
Page 3 of 3

v. State, 900 F. Supp. 2d 75, 85-87 (D. Me 2011); *Citizens United v. FEC*, 558 U.S. 310, 366-71 (2009). Your client should be advised that the use of a wide-spread direct mailer, use of different media, and coordination with candidate campaigns or other non-campaign individuals are all factors, among others, that could alter this analysis in the future. The simplest way to avoid a future violation is to insert the name and address or email address on any such cards per RSA 664:14, I.

We will take no further action on this complaint at this time in light of *McIntyre*, your assertions of anonymity on behalf of your client, and your sworn affidavit. This matter may be reopened at any time should we receive conflicting information. Please feel free to contact me if you have any questions.

Sincerely,



Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
(603) 271-3650
nicholas.chongyen@doj.nh.gov

cc: Olivia Belanger, Keene Sentinel
Kyle McDonald, Esquire

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**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOHN M. FORMELLA
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

June 7, 2021

Milford Police Department
Milford Fire Department
Milford Ambulance Service
c/o John Rattigan, Esquire
Donahue, Tucker & Ciandella, PLLC
16 Acadia Lane
P.O. Box 630
Exeter, NH 03833

Re: **CEASE AND DESIST ORDER** (2021147840)
Violation of RSA 659:44-a

Dear Attorney Rattigan:

On March 3, 2021, Kevin Kleber submitted a complaint to this Office, alleging that the Milford Police Department violated RSA 659:44-a, which prohibits electioneering by public employees.¹ Mr. Kleber alleged the Department violated this statute through its posts on its official Facebook page. On March 7, 2021, this Office received another complaint from Paul Bagley, indicating that Facebook pages belonging to the Milford Fire Department and Milford Ambulance Service, both similarly published electioneering material in violation of RSA 659:44-a. This investigation followed.

I. FACTUAL BACKGROUND

a. **Milford Police Department**

The first post was published on January 13, 2021, containing a message asking voters to vote "YES" on Warrant Article 3. The post also contained images of pamphlets with the message, "Vote YES to Warrant Article 3." On January 27, 2021 another post was published, and depicts an image with the message "Vote YES to Warrant Article 3." On February 10, 2021,

¹ Mr. Kleber also provided links to a post by Tim Finan, Chairman of the Milford Town Media Advisory Committee, as well as the minutes from the Milford Board of Selectmen's January 25, 2021 meeting. He alleged both were in violation of RSA 659:44-a. On March 10, 2021, this Office attempted to review the webpages attached to those links, however they did not work. Attempts to independently access the Town of Milford's website – the source of both of Mr. Kleber's links – were also unsuccessful.

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a post was published containing the following message: "As we continue to provide information to gain your support of Warrant Article 3 for a yes vote on March 9th we have added documents to our Town webpage under the First Responders Communications Network. As we add new information we will keep you posted. Thank you." This post included a link to the referenced webpage.

There were also posted YouTube videos that appear to be a recording of a Zoom meeting hosted by Milford resident Tim Finan, and attended by Police Chief Mike Viola, Fire Chief Ken Flaherty, Ambulance Service Director Eric Shelberg, and Public Works Director Rick Riendeau. The four department heads each take a turn answering questions from Mr. Finan on Article 3. Segments of this meeting were also posted as individual videos on the Milford Police Department's Facebook page.

At the end of each video is a photo of four individuals, one representative each from the Milford Police, Fire, Ambulance Service, and Public Works departments. At the bottom of that photo are two messages displayed in succession: "Support our First Responders They Keep Us Safe, Let's Keep Them Safe" or "PLEASE VOTE YES on #3", which is followed up by a photo of a sign that reads "Vote Yes on Article #3."

On March 5, 2021, this Office forwarded a copy of Mr. Kleber's complaint to Chief Mike Viola from the Department. We requested a response from the Department to Mr. Kleber's complaint.

On March 8, 2021, you responded on behalf of the Department. You indicated that as soon as the Town of Milford and the Department became aware of the January 27 Facebook post, it was immediately taken down and removed from the Department's Facebook page. You also explained that the Department's Facebook page can be accessed by four different police officers. However, you were not aware of who was responsible for the January 27 post. It was also unclear whether the posting was done as part of the responsible individual's official duties.

You have represented that none of the four police officers were aware of the electioneering prohibitions under RSA 659:44-a. You indicated that the Department will be "promptly reviewing with those who have access to the Police Department's Facebook page the electioneering prohibitions set forth in RSA 659:44-a."

On March 18, 2021, this Office spoke with Chief Viola, Captain Craig Frye, and Captain Shawn Pellitier from the Milford Police Department.

Chief Viola, explained that Police Department uses its Facebook page to post up-to-date information that is beneficial to the Town. For example, information relating to accidents and fire scenes to avoid. He explained as a result, five supervisors have been granted administrative privileges over the Facebook page, because one or more of them are likely to be working at the time, and may need to post information in real-time. Chief Viola identified Captains Frye and Pellitier as the supervisors with primary administrative access to the Facebook page.

The Police Department sent photos to CTA including a photo of a department cruiser and the front of the police department building. CTA was the company hired by the Town of Milford to complete a study on the Town's need for a new communication center. The Police Department later learned that these photos were used by CTA to make the informational pamphlets. There was no cost to the Police Department or the Town for the pamphlet. Captain Frye explained that he was sent a copy of the draft pamphlet by a CTA intern for review. CTA provided the Police Department with the final versions of these pamphlets, which were displayed in the Police Department's January 13 and January 27, 2021 Facebook posts. Captain Frye and Captain Pelletier stated that they were responsible for posting copies of the pamphlets to the Police Department's Facebook page.

With respect to the videos, Captain Pelletier explained they were shared from Mr. Finan's Facebook account to the Police Department's Facebook page. In order for private citizens to post on the Police Department's Facebook page, an administrator must approve the post before it is published. Captain Pelletier indicated he had approved Mr. Finan's posts containing the above-described videos.

b. Milford Fire Department

The Milford Fire Department's Facebook page similarly published images of the pamphlets created by CTA, with the message "Vote YES to Article 3." On March 18, 2021, this Office spoke with Chief Flaherty from the Milford Fire Department. He explained that he obtained these images by copying them from the posts that appeared on the Police Department's Facebook page.

Chief Flaherty indicated that he is the administrator of the Fire Department's Facebook page, and decides what to post, as well as approves postings from private citizens. He stated that he accepted and authorized the posting of Mr. Finan's videos to the Fire Department's Facebook page.

c. Milford Ambulance Service

The Milford Ambulance Service's Facebook page similarly published images of the pamphlets created by CTA, with the message "Vote YES to Article 3." On March 19, 2021, this Office spoke with Director Shelberg of the Milford Ambulance Service. He stated that he published the images of the pamphlets.

Director Shelberg stated that he is the administrator of the Ambulance Service's Facebook page and decides what to post, as well as approves postings from private citizens. He approved the posting of the videos to the Ambulance Service's Facebook page.

d. Pre-Election Meetings with Private Citizens

The videos posted by Mr. Finan are recordings of a Zoom meeting held prior to the Milford town election. On March 19, 2021, this Office spoke with Mr. Finan.

He explained that the Zoom meetings were actually part of his podcast called “Granite Talk.” The podcast is not associated with nor subsidized by the Town. The content of the videos and the statements from the four department heads was all informational in nature, and did not direct the viewer to vote in a particular way on Article 3.

However, at the end of the video, words did appear on the screen asking for a “Yes” vote on Article 3. Mr. Finan explained that he added these messages himself. None of the Departments were aware that he had added these messages to the final video or any of the associated clips.

When this Office spoke with the Departments, none of them were aware that these electioneering messages were added at the end of the videos when they approved Mr. Finan’s Facebook posts to their respective Facebook pages.

e. Town Administrator John Shannon

On March 18, 2021, this Office spoke with Administrator Shannon. Administrator Shannon stated that after learning about the social media posts he directed all department heads on March 3, 2021 to remove all references to “support” or “vote yes” to Article 3 from town departments’ Facebook pages.

Administrator Shannon apologized for the mistake, stating that neither he nor the department heads were aware of the electioneering statute. To ensure that this error does not happen again, he stated he held a department head meeting, at which they discussed updating the Town’s social media policy to prohibit private citizens from posting material on department Facebook pages. They also discussed providing training for all town employees on the prohibition against electioneering under RSA 659:44-a.

II. APPLICABLE LAW

RSA 659:44-a provides that “[n]o public employee, as defined in RSA 273-A:1, IX, shall electioneer while in the performance of his or her official duties or use government property, including, but not limited to, telephones, facsimile machines, vehicles, and computers, for electioneering.” The statute also defines electioneering as “to act in any way specifically designed to influence the vote of a voter on any question or office.” A public employee is defined as “any person employed by a public employer” with some limited exceptions. RSA 273-A:1, IX. Those exceptions are:

- (a) Persons elected by popular vote;
- (b) Persons appointed to office by the chief executive or legislative body of the public employer;
- (c) Persons whose duties imply a confidential relationship to the public employer; or
- (d) Persons in a probationary or temporary status, or employed seasonally, irregularly or on call. For the purposes of this chapter, however, no employee shall be determined to be in a probationary status who shall have been employed for more than 12 months or who has an individual contract with his employer, nor shall any employee be

determined to be in a temporary status solely by reason of the source of funding of the position in which he is employed.

III. ANALYSIS

With respect to Captain Frye, Captain Pelletier, Chief Flaherty, and Director Shelberg, none of the “public employee” exceptions under RSA 273-A:1, IX are applicable. We therefore conclude that these individuals, who had access to and administrative privileges over their respective departments’ Facebook pages, are subject to the electioneering prohibition under RSA 659:44-a.

Given its broad construction, and the potential First Amendment implications associated with this statute’s regulation of speech, this Office will exercise its powers under RSA 7:6-c, authorizing the Attorney General to enforce election laws, to interpret RSA 659:44-a narrowly. Specifically, to construe the term “electioneer” under RSA 659:44-a, in conjunction with the definition of “electioneering” under RSA 652:16-h.

Although the language of RSA 659:44-a appears to have been constructed broadly, interpreting it in conflict with RSA 652:16-h would be in error.² The language of RSA 659:44-a was last updated on January 1, 2017. RSA 652:16-h was enacted on January 1, 2020. RSA 652:16-h defines “electioneering” as “visibly displaying or audibly disseminating information that a reasonable person would believe explicitly advocates for or against any candidate, political party, or measure being voted.” (emphasis added).

“When interpreting two statutes which deal with similar subject matter, we will construe them so that they do not contradict each other, and so that they will lead to reasonable results and effectuate the legislative purpose of the statute. To the extent two statutes conflict, the more specific statute controls over the general.” EnergyNorth Nat. Gas, Inc. v. City of Concord, 164 N.H. 14, 16 (2012).

Therefore, we conclude that in order to qualify as “electioneering” under RSA 659:44-a, the conduct in question must explicitly advocate for a question or office being voted upon consistent with RSA 652:16-h.

The Facebook posts appearing on the Police Department’s, Fire Department’s, and Ambulance Service’s pages, that displayed images containing and messages stating, “Vote YES to Article 3” constitute impermissible electioneering for the purposes of RSA 659:44-a. Additionally, the videos accepted and approved by the administrators of these pages, and bearing a similar message to vote “Yes” on Article 3, similarly constitute impermissible electioneering.

IV. CONCLUSION

² See also Stenson v. McLaughlin, 2001 WL 1033614 (D.N.H. Aug. 24, 2001) (Holding that statutes can regulate political communications without violating the First Amendment “only if the communications used explicit words of advocacy of election or defeat of a candidate.”).

Pursuant to RSA 659:44-a, and based upon the investigation conducted by our office, the Milford Police Department, Fire Department, and Ambulance Service and their employees are hereby ordered to **Cease and Desist from engaging in further electioneering by public employees**. Failure to do so could constitute a violation of RSA 659:44-a and result in further enforcement action by this Office.

Any remaining social media posts on these departments' Facebook pages or publications on the Town of Milford's website constituting electioneering material pursuant to the analysis outlined above must be removed immediately.

In addition, the Town of Milford shall submit to this Office a remediation plan, outlining the steps its departments will take to educate current and future personnel on the prohibition of RSA 659:44-a as well as appropriate protocols to prohibit electioneering by public employees in the future. A copy of the Town's social media policy described by Administrator Shannon shall also be provided to this Office. We request that your remediation plan and the social media policy be sent to us within 30 days of the date of this letter.

This matter will be closed contingent upon receipt within 30 days, of an acceptable remediation plan. Please contact me if you have any questions.

Cease and Desist Order Issued

By Authority of:

John M. Formella
Attorney General



Nicholas A. Chong Yen
Assistant Attorney General
(603) 271-3650
nicholas.chongyen@doj.nh.gov

cc: Kevin Kleber
Paul Bagley

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TOWN OF MILFORD

TOWN ADMINISTRATION



June 30, 2021

Nicholas A. Chong Yen
Assistant Attorney General
Department of Justice
33 Capitol Street
Concord, NH 03301

Re: Cease and Desist Order (2021147840) Violation of RSA 659:44-a

Dear Mr. Assistant Attorney General:

On June 10, 2021, the Town of Milford received a letter from your office concerning electioneering of public employees. This letter and the other documents are in response to the further enforcement action required by your office.

The Town's staff has gone through our Town Facebook pages mentioned in your letter and removed any and all posts that were in violation of the electioneering RSA. I am also including the remediation plan as requested as well as the Town's policy dealing with social media. All current staff members have already been provided with power point slides for training purposes. This training will help avoid this issue in the future and will be a point of emphasis by the department heads.

Please contact me at (603) 249-0601 or jshannon@milford.nh.gov if you require anything else.

Sincerely,

John Shannon
Town Administrator

RSA 659:44-a Electioneering by Public Employees

Overview and Training on the RSA
and how it Effects Municipal
Employees

RSA 659:44-a – Electioneering by Public Employee

- 2020 New Hampshire Revised Statutes
Title LXIII - Elections
Title 659 - Election Procedure
Section 659:44-a - Electioneering by Public Employees.
- Universal Citation: NH Rev Stat § 659:44-a (2020)
- **659:44-a Electioneering by Public Employees.** –
 - I. No public employee, as defined in RSA 273-A:1, IX, shall electioneer while in the performance of his or her official duties.
 - II. No public employee shall use government property or equipment, including, but not limited to, telephones, facsimile machines, vehicles, and computers, for electioneering.
 - III. For the purposes of this section, "electioneer" means to act in any way specifically designed to influence the vote of a voter on any question or office.
 - IV. Any person who violates this section shall be guilty of a misdemeanor. **Source.** 2003, 172:2, eff. June 18, 2003. 2016, 176:1, eff. Jan. 1, 2017.

Public Employee

- A public employee is defined as “any person employed by a public employer” with some limited exceptions. RSA 273-A:1, IX, Those exceptions are:
- Persons elected by popular vote.
- Persons appointed to office by chief executive or legislative body of the public employer.
- Persons whose duties imply a confidential relationship to the public employer.
- Persons in a probationary or temporary status, or employed seasonally, irregularly or on call.
- For the purpose of this chapter, however, no employee shall be determined to be in a probationary status who shall have been employed for more than 12 months or who has an individual contract with his employer, nor shall any employee be determined to be in a temporary status sole by reason of the source funding of the position in which he/she is employed.

Town of Milford Social Media Policy

- Current Town of Milford's Electronic and Telephone Communication Policy for all town employees is located in the Town of Milford Employee Handbook.
- The Electronic and Telephone Communication Policy can be accessed by town employees on the Town of Milford website under the Human Resources section.
- During new employee orientation meeting with HR Director, employees are given information on town policies and where to retrieve them from.
- Section 7 – Personal Use, subsection D, states:
- Employees may not divulge information gained by reason of their authority, make any statements, speeches, appearances, and endorsements; or publish materials that could reasonably be considered to represent the views or positions of the Town without expressed authorization.

Remediation Plan Moving Forward

- Review and Update Current Social Media Policy for the Town of Milford
- Include information pertaining to RSA 659:44-a in the updated policy to ensure that employees are aware of this statute.
- Review with Department Heads to ensure that they are aware of the new policy and RSA 659:44-a and how it can effect their employees.
- Department Heads or designee will conduct training within their departments that pertains to the town's social media policy and RSA 659:44-a Electioneering by Public Employees statute.
- Any changes to the Town of Milford Social Media Policy will be documented and forwarded to each town department and the HR section of the Town of Milford website.

TOWN OF MILFORD POLICY ON ELECTRONIC AND TELEPHONE COMMUNICATION

PURPOSE

To describe the Town of Milford's policy on the use and monitoring of its electronic and telephonic communications systems, including E-mail, voice mail, and social media sites.

POLICY

All electronic and telephonic communication systems and all communications and stored information transmitted, received, or contained in the Town's information system are the property of the Town of Milford. The use of any software and business equipment for private purposes that could result in personal gain or profit, without prior permission from your Department Head, the Town Administrator, or the Board of Selectmen, is strictly prohibited. Town of Milford business equipment includes, but is not limited to, facsimiles, telecopiers, telephones, computers, copy machines, etc. It is the opinion that, at the time of this writing, no such activities are ongoing. Such equipment also may not be used to solicit other individuals for any purpose or to transmit sexually or other offensive messages. All passwords and pass codes are the property of the Town of Milford and no employee may use passwords or pass codes that are unknown to the Town.

Violations of this policy are subject to the progressive disciplinary process as outlined in the current Town of Milford Employee Handbook of Personnel Rules and/or any applicable Collective Bargaining Agreement. To ensure that the use of electronic and telephonic communication systems and business equipment is consistent with the Town's interests, the Town – or its authorized representative(s) – may, from time to time, monitor the use of such equipment and may print out and read all E-mails entering, leaving, or stored in these systems.

PROCEDURE

Current employees will acknowledge receipt of this policy and its intent in a meeting with their Department Head. Said policy is hereby incorporated by reference into the current Town of Milford Employee Handbook of Personnel Rules and/or any applicable Collective Bargaining Agreement.

New employees will be required to sign for a copy of the Town of Milford Employee Handbook of Personnel Rules or applicable Collective Bargaining Agreement upon acceptance of employment with the Town of Milford.

SOCIAL MEDIA GUIDELINES

1. PURPOSE

The Town of Milford endorses the secure use of social media to enhance communication and information exchange; streamline processes; and foster productivity with its employees. These guidelines establish the Town's position on the use and management of social media and provide guidance on the management, administration, and oversight of social media. These guidelines are not meant to address any one particular form of social media but to apply to all forms of social media including emerging technologies.

2. SCOPE

These guidelines shall apply to all employees and department volunteers of the Town of Milford.

3. PHILOSOPHY

Social media provides a valuable means of assisting the Town in providing community education, community information, emergency preparedness, and other related community objectives. It also provides citizens with a valuable tool for communicating with the Town. The Town also recognizes the role that social media tools may play in the personal lives of its employees. However, employees and volunteers must be aware that their use of social media, even in their personal lives, can have an effect on the performance of their duties and could negatively impact the Town. These guidelines provide specific restrictions and prohibitions on the use of social media when acting as a representative of the Town of Milford as well as guidance of a precautionary nature as to the use of social media by Town personnel in both their personal and professional lives.

4. DEFINITIONS

- Blog:** A self-published diary or commentary on a particular topic that may allow visitors to post responses, reactions, or comments.
- Post:** Content an individual shares on a social media site or the act of publishing content on a site.
- Profile:** Information that a user provides about himself or herself on a social networking site.
- Social Media:** A category of Internet-based resources that enable the user to generate content and encourage other user participation. This includes, but is not limited to, social networking sites: Facebook, MySpace, Twitter, YouTube, Wikipedia, blogs, and other sites.
- Social Networks:** Platforms where users can create profiles, share information, and socialize with others using a range of technologies.
- Speech:** Expression or communication of thoughts or opinions in spoken words, in writing, by expressive conduct, symbolism, photographs, videotape, or related forms of communication.
- Town Personnel:** Refers to employees and department volunteers of the Town of Milford.

5. PROCEDURES

- A. Prior to creating a social media site, departments should consider the need and value of a department or program dedicated site versus relying on the Town website to disperse department or program information. Department staff should calculate the time and effort it will take to maintain a site such that the information posted will remain current and that visitors will continue to find the site useful over time.
- B. Department Heads must obtain approval from the Town Administrator and the Director of Community Media prior to creating a social media account.
- C. Department Heads must approve the creation of social media accounts within their departments and appoint specific staff members to maintain the sites. Department Heads are responsible for ensuring that their staff follows the procedures set forth in these guidelines and monitoring the sites for appropriate use by their employees.
- D. All approved uses of social media must be reported to the Town's Director of Community Media. The Director of Community Media will maintain a list of all active Town social media sites, *including login and password information*. Passwords must not be changed without first informing the Director of Community Media of the change. The Director of Community Media must be informed if the department intends to stop operating its social media site.

- E. Department staff is responsible for monitoring comments, immediately removing any prohibited content, and saving content as required by the NH Right-To-Know law (RSA 91-A). In addition, when staff removes content that they deem to be inappropriate, they need to include their name, the date and time the content was removed, and a brief explanation as to why the content was removed.

6. CONTENT

Town Posted Information

- A. The most appropriate uses of Town social media sites are:
- Time-sensitive and emergency information such as road closures and weather emergencies.
 - As a communications/marketing tool which increases the Town's ability to broadcast its messages to the widest possible audience. Specifically this would include such things as advertising upcoming Recreation Department events, or upcoming meetings of the various Town committees, boards or commissions.
- B. Information posted to the Town's social media sites is subject to the New Hampshire Right-To-Know law (RSA 91-A).
- C. Wherever possible and reasonable, content posted to the Town's social media sites will also be available on the Town's main website.
- D. Social media sites shall clearly indicate that they are maintained by the official department and shall have the department logo and contact information prominently displayed.
- E. Each social media site shall include an introductory statement that clearly specifies the purpose and scope of the Town's presence on the site.
- F. Social media sites should contain links directing users back to the Town's website for in-depth information, forms, documents, or online services necessary to conduct business with the Town of Milford.
- G. Social media sites shall clearly indicate that any articles and any other content posted or submitted for posting are subject to public disclosure.
- H. Information posted on social media sites must be related to official Town business.
- I. Town employees shall be professional in all social media outlets, especially when responding to criticism or negative posts.
- J. Town Employees are expressly forbidden to misuse any social media access privileges in any way that may include, but are not limited to:
- a. Using social media accounts for unlawful activities, including violations of copyright law, or for activities that are malicious or have the effect of harassing other users.
 - b. Violating the terms of service policies of any network to which they are utilizing. For example, when maintaining a Town Facebook page, Facebook's published Terms of Service must be adhered to.

- c. Misrepresenting the Town's programs or policies in their communications.
- d. Conducting political activities or private business.

Information Posted by Outside Individuals

For all Town social media sites that allow posts and/or comments, those sites are limited public forums that are moderated by Town staff to ensure content posted by outsiders is appropriate.

1. Posted content (including comments, photos and links) must be related to the topic posted by the Town to be considered appropriate.
2. Information posted to the Town's social media sites is subject to the New Hampshire Right-To-Know law (RSA 91-A).
3. Inappropriate and prohibited content is subject to immediate removal from the site. This includes, but is not limited to, content that:
 - Is not topically related to the particular article being commented upon.
 - Promotes or advertises commercial services, entities or products.
 - Supports or opposes political candidates or ballot propositions.
 - Is obscene
 - Discusses or encourages illegal activity.
 - Promotes, fosters, or perpetuates discrimination on the basis of creed, color, age, religion, gender, marital status, status with regard to public assistance, national origin, physical or mental disability, or sexual orientation.
 - Provides information that may tend to compromise the safety or security of the public or public systems.
 - Violates a legal ownership, including, but not limited to, copyright law.
 - Spam

7. PERSONAL USE

The following section provides guidance of a precautionary basis on the use of social media by Town personnel in both their personal and professional lives.

- A. Employees are free to express themselves as private citizens on social media sites to the degree that their speech does not impair or impede the performance of their duties, impair discipline and harmony among coworkers, or negatively affect the public perception of the department.
- B. As public employees, department personnel are cautioned that their speech either on or off duty, and in the course of their official duties on matters of public concern, may not necessarily be protected speech under the First Amendment.
 - a. This speech may form the basis for discipline if deemed detrimental to the Town or department and the speech is not protected by the First Amendment.
 - b. Employees should assume that their speech and related activity on social media sites will reflect upon their position within the Town.
- C. Employees shall not post, transmit, or otherwise disseminate any information to which they have access as a result of their employment without written permission from the appropriate Board or Commission or their designee.

- D. Employees may not divulge information gained by reason of their authority; make any statements, speeches, appearances, and endorsements; or publish materials that could reasonably be considered to represent the views or positions of the Town without expressed authorization.
- E. Employees shall, at all times, exercise diligence to avoid holding themselves out as spokespersons for their department except when duly authorized to do so. For this reason, the use of titles, department logos, Town-owned images, or identification as an employee of the department when using social media sites is prohibited.
- F. Employees and volunteers engaged in patient care are prohibited – while on or off duty – from posting federal HIPAA-defined, patient-identifiable information or information that can reasonably be used to identify a patient in any form that relates to the past, present or future physical or mental health of an individual. Additionally, employees and volunteers are prohibited from releasing scene or patient photographs or from discussing patient care, transport and activities on personal social media sites or the department's social media site without the expressed written permission of the department Privacy Officer.

8. DISCIPLINARY ACTION

Any disciplinary action for violations of these guidelines will follow, and be consistent with, the Town of Milford Employee Handbook, the Town of Milford Ethics Policy and/or any applicable collective bargaining agreements.

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOHN M. FORMELLA
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

July 8, 2021

SENT VIA EMAIL ONLY

John Shannon, Town Administrator
Town of Milford
jshannon@milford.nh.gov

Re: Cease and Desist Order (2021147840)

Dear Administrator Shannon:

On July 1, 2021, this Office received the Town of Milford's remediation plan. We have reviewed the Town's plan and it is acceptable.

This matter is closed.

Sincerely,

A handwritten signature in dark ink, appearing to read "Nick Chong Yen".

Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
(603) 271-3650
nicholas.chongyen@doj.nh.gov

cc: John Rattigan, Esquire

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**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOHN M. FORMELLA
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

June 7, 2021

Lucifer Everilove

Manchester, NH 03109

Re: Absentee Ballot (2020146297)

Dear Mr. Everilove,

On December 4, 2020, you spoke with Chief Investigator Richard Tracy and explained that during the November 3, 2020 General Election, you were a Uniformed and Overseas Citizens Absentee Voting Act (or UOCAVA) voter. You told Investigator Tracy that you voted by UOCAVA ballot, but found out that your ballot had been rejected, and wanted to know why. You also asked about a Right-to-Know request you made upon the Manchester City Clerk's Office for a copy of the absentee voter list.

With respect to your first question, you reported to Investigator Tracy that you emailed your completed UOCAVA ballot to Staples, where it was picked up and delivered to Ward 8 in Manchester by your friend and roommate [REDACTED]. You also indicated that in case [REDACTED] could not make it in time, you also contacted another friend about delivering your ballot, whom you did not ultimately use.

RSA 657:20 requires UOCAVA voters to follow the procedures set forth under RSA 657:17.

RSA 657:17 provides that a voter can only deliver his/her absentee ballot contained inside a sealed envelope to the city and town clerk in one of two ways: (a) The voter or the voter's delivery agent may personally deliver the envelope; or (b) The voter or the person assisting the blind voter or voter with a disability may mail the envelope to the city or town clerk, with postage affixed.

RSA 657:17 defines specific categories of individuals who fit the definition of "delivery agent":

- (a) The voter's spouse, parent, sibling, child, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepparent, stepchild; or

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- (b) If the voter is a resident of a nursing home as defined in RSA 151-A:1, IV, the nursing home administrator, licensed pursuant to RSA 151-A:2, or a nursing home staff member designated in writing by the administrator to deliver ballots; or
- (c) If the voter is a resident of a residential care facility licensed pursuant to RSA 151:2, I(e) and described in RSA 151:9, VII(a)(1) and (2), the residential care facility administrator, or a residential care facility staff member designated in writing by the administrator to deliver ballots; or
- (d) A person assisting a blind voter or a voter with a disability who has signed a statement on the affidavit envelope acknowledging the assistance.

In this case, your friend and roommate [REDACTED] could not be a "delivery agent" within the meaning of RSA 657:17. Given the specific nature of this law, delivery of an absentee or UOCAVA ballot that fails to meet RSA 657:17's requirements would properly be rejected by a moderator pursuant to his/her authority under RSA 659:53.¹

This same information regarding the two options of delivering a completed UOCAVA ballot is contained in the "State of New Hampshire Email Instructions for UOCAVA Voters", which you would have received with your ballot that was emailed to you on Monday, November 2, 2020. A copy of those instructions is enclosed. Please note that the instructions state that your completed ballot must be sealed in an envelope addressed to the Manchester City Clerk, and your sealed ballot must be hand delivered by you personally or an authorized delivery agent.

With respect to your second question, if you wish to determine what options are available to you to continue pursuing your Right-to-Know request, you will need to consult private counsel. You may find more information in the Attorney General's Right-to-Know memorandum, which can be found here: <https://www.doj.nh.gov/civil/documents/right-to-know.pdf>

This matter is closed.

Sincerely,



Nicholas Chong Yen
Assistant Attorney General
Election Law Unit
(603) 271-0445
Nicholas.chongyen@doj.nh.gov

Enclosure

cc: Deputy Clerk JoAnn Ferruolo
Jim Gaudet, Ward 8 Moderator

¹ This Office does not have statutory authority to unseal the boxes containing the marked absentee ballots. Additionally, there is no evidence of a crime in this case to meet the probable cause threshold in order to obtain a search warrant for this purpose.

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOHN M. FORMELLA
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

June 7, 2021

Pixie Hill, Town Clerk
Town of Springfield
PO Box 22
Springfield, NH 03284-0022

Re: Inappropriate Comments during Voter Registration (2020145848)

Dear Clerk Hill:

On November 2, 2020, this Office received a complaint from a Springfield voter about the voter's experience that day at the Springfield Town Hall while registering to vote. The complaint alleged that while completing an absentee ballot for the 2020 November general election, another individual appeared at Town Hall to request information about the general election voting procedure.

According to the complaint, a town representative advised this individual to drive safely on election day. This individual responded "so I should drive fast and hit as many as I can?" to which the town representative stated "only if they're wearing blue" (or words to this effect).

On November 5, 2020, this Office reached out to you to confirm the accuracy of this complaint. You indicated that you were responsible for making the comment "only if they're wearing blue," which you acknowledged was inappropriate.

RSA 659:44-a prohibits public employees from electioneering while in the performance of their official duties. This statute defines "public employee" according to RSA 273-A:1, IX. A public employee is defined as "any person employed by a public employer" with some limited exceptions. RSA 273-A:1, IX. Those exceptions are:

- (a) Persons elected by popular vote;
- (b) Persons appointed to office by the chief executive or legislative body of the public employer;
- (c) Persons whose duties imply a confidential relationship to the public employer; or
- (d) Persons in a probationary or temporary status, or employed seasonally, irregularly or on call. For the purposes of this chapter, however, no employee shall be determined

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to be in a probationary status who shall have been employed for more than 12 months or who has an individual contract with his employer, nor shall any employee be determined to be in a temporary status solely by reason of the source of funding of the position in which he is employed.

In this case, since the town clerk is an elected position, you are not considered a "public employee" within the meaning of this law.

Additionally, it is questionable whether your comment would constitute "electioneering" within the meaning of RSA 659:44-a, III.

Nonetheless, your comment, was inappropriate, and could be misconstrued. While we understand it was a spontaneous and poorly chosen remark, as an election official, you must exercise a higher degree of prudence in the day-to-day affairs of your office. Failure to do so could be interpreted as evidence of impropriety, which may undermine the trust and confidence Springfield voters have in their elected officials.

This matter is closed.

Sincerely,



Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
(603) 271-3650
nicholas.chongyen@doj.nh.gov

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOHN M. FORMELLA
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

June 7, 2021

Elizabeth S. Kinney

Portsmouth NH 03801

Re: City of Portsmouth – 2020 September Primary (2020145196)

Dear Ms. Kinney:

Thank you for sharing your concerns from the 2020 September primary election. This past year has presented unprecedented election challenges, and we appreciate your understanding as we continue to review complaints and reports from that period.

We understand that during the September 8, 2020 state primary, you did not have a satisfactory voting experience due to the polling place modifications utilized by City of Portsmouth election officials in response to the public health crisis. Specifically, you raise issues with:

1. The questions asked by officials as to why you were unable to wear a mask; and
2. Concerns with being unable to observe your marked ballot as it was fed into the ballot counting device.

With respect to your first concern, guidance published by this Office recognized the broad authority of moderators granted by the New Hampshire Constitution to impose a face covering or mask requirement to enter the polling place. However, we indicated that the ability to impose such a requirement was conditioned upon providing voting alternatives to those unable or unwilling to wear a mask. These alternatives relied upon strong encouragement from this Office for election officials to engage constructively with voters unable or unwilling to wear a face covering/mask to find a solution that would work for the voter.

Based on your description of events, it is apparent that the moderator's questions were not meant to be offensive, but attempting to engage constructively with you as the moderator carried out this voting alternative for the first time.

With respect to your second concern, our guidance indicated it was acceptable for election officials to use a separate ballot box in the area set aside for those unable or unwilling to

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Elizabeth Kinney

Page 2 of 2

wear a face covering or mask. The guidance also stated that it was permissible for officials to periodically take this ballot box inside to transfer cast ballots into a ballot counting device.

The State's election officials have consistently and routinely carried out New Hampshire's elections with the highest degree of integrity, diligence, and security. We have every confidence that the moderator ensured that your ballot was cast into the ballot counting device. Records from the State's centralized voter database confirm that you voted in both the 2020 September Primary and November General elections. Additionally, this Office deployed inspectors to 99% of the polling places in New Hampshire. Each of the city's five wards were inspected, and the inspector noted that an alternative voting option was provided, and did not observe any issues with this alternative option.

This matter is closed. Please feel free to contact me if you have any questions.

Sincerely,



Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
(603) 271-3650
nicholas.chongyen@doj.nh.gov

cc: Portsmouth City Clerk

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**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOHN M. FORMELLA
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

June 14, 2021

[REDACTED]
Campton, NH 03223

Re: Voting and Domicile in Campton, New Hampshire (2021148096)

Dear [REDACTED]

On January 29, 2021, this Office received a complaint alleging that you fraudulently represented your qualifications to vote in Campton, New Hampshire while completing your voter registration paperwork. Specifically, the complainant alleged that while you claimed to be living in Campton, you were in fact domiciled at [REDACTED] in Andover, Massachusetts. After careful consideration, we have concluded that no violation of New Hampshire's election laws has occurred.

In reaching this determination, we reviewed information forwarded to this Office by the complainant, including a series of screenshots taken from your Facebook profile page indicating that you are [REDACTED] in Lawrence, Massachusetts. We were also sent and reviewed a comment you posted on the Waterville Estates Home Owners Association Facebook page. This Office examined your New Hampshire voter records, your New Hampshire motor vehicle records, and your Massachusetts motor vehicle records. We spoke with North Andover City Clerk Trudy Reid, contacted the Campton Post Office, spoke with Campton Town Clerk Hannah Joyce, and spoke with you.

On February 8, 2021, records show you registered to vote in Campton, New Hampshire. You presented your New Hampshire's driver's license as proof of your domicile for voting purposes during your registration. You identified [REDACTED] Campton, New Hampshire as your domicile. Since registering to vote, as of March 18, 2021, you have not voted in New Hampshire. This was also confirmed by Campton Town Clerk Joyce. You were not previously registered to vote in New Hampshire.

New Hampshire motor vehicle records show that you identify [REDACTED] Campton, New Hampshire as your address. Your New Hampshire driver's license was issued to

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you on January 11, 2021. The records also confirm that you surrendered your Massachusetts driver's license.

On March 18, 2021, Chief Investigator Richard Tracy spoke with North Andover City Clerk Reid. Clerk Reid provided your Massachusetts voter records. These records show that you registered to vote in North Andover on November 18, 2014. However, your voting history indicates that you have been voting in Massachusetts since at least November 3, 1998, when you voted during the general (state) election on that date in Cambridge. You most recently voted in North Andover during the November 3, 2020 general election.

On April 1, 2021, you spoke with Investigator Tracy. You acknowledged that you are a teacher in Lawrence, Massachusetts, stating that you have been working remotely since October, 2020. You explained that the Lawrence school district first switched to remote learning in March, 2020, until the end of the school year. The district tried to return to in-person learning from late August, 2020 when school started, until sometime in October, 2020, before going back to remote learning. The district has continued to utilize remote learning ever since.

You confirmed for Investigator Tracy that you established residency in Campton, New Hampshire in or around January, 2021. You described how you have been [REDACTED] while living in Campton. You also confirmed that you and your husband own a home in North Andover, where your husband lives during the week with your children. Your children presently attend a school in North Andover, but you and your husband are weighing enrolling them in the Campton School District.

You further explained that if the Lawrence school district returns to in-person learning you will continue to live in Campton and commute from Campton to Lawrence, since your husband is considering moving to Campton full-time.

On April 2, 2021, Investigator Tracy contacted the Campton Post Office. The Post Office confirmed that the mail box you purchased does not forward mail to another address in Massachusetts.

In New Hampshire, in order to vote in a town, ward, or unincorporated place a person must be domiciled there. A "domicile for voting purposes is that one place where a person, more than any other place, has established a physical presence and manifests an intent to maintain a single continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government." RSA 654:1, I.¹

RSA 654:11 creates a presumption that the applicant is qualified to vote and authorizes the supervisors of the checklist to reject the application only if they conclude that it is more

¹ Pursuant to an order issued by the Hillsborough Superior Court in the matter of League of Woman Voters of New Hampshire, et al. v. William M. Gardner, et al., docket number 226-2017-CV-00433, in April of 2020, Laws of 2017, Chapter 205 (also known as "SB3") was struck down. As a result, the version of RSA Chapter 654 used here is the one in effect in 2016. The version of RSA 654:2 in effect in 2016 did not contemplate the concept of temporary presence, which was added by SB3.

likely than not that the applicant is not qualified. See New Hampshire Election Procedure Manual: 2020-2021, Pg. 170.

The supervisors must consider the applicant's manifestations of intent to maintain a single, continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government. There are many types of documents that satisfy this requirement. Among those documents, election officials have recognized a New Hampshire driver's license showing an applicant's current domicile address as satisfactory proof of domicile.²

In this case, you registered to vote using a New Hampshire driver's license bearing the address you are living at: [REDACTED] Campton, New Hampshire. Since obtaining your New Hampshire driver's license and registering to vote in Campton, you told Investigator Tracy that you have been living in Campton, and teaching remotely. Based on the forgoing, we conclude that you are domiciled for voting purposes in Campton, New Hampshire.

However, please be advised, RSA 654:2 states that "[d]omicile for purposes of voting is a question of fact and intention." "A voter can have only one domicile for these purposes." RSA 654:2. While your present circumstances may support the conclusion you are domiciled in Campton, you must remain mindful of the qualifications in order to vote in Campton. If you return to North Andover and re-establish your domicile with your family there, you can no longer vote in Campton, New Hampshire unless and until you re-establish your domicile in Campton.

This matter is closed. Please contact me if you have any questions.

Sincerely,



Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
(603) 271-3650
nicholas.chongyen@doj.nh.gov

cc: Edward McElroy
Hannah Joyce, Campton Town Clerk
Campton Supervisors of the Checklist
Trudy Reid, North Andover City Clerk

² "A document showing that the applicant owns the place the applicant is domiciled at, such as a deed, property tax bill, or other similar document that has the applicant's name and address" would also constitute satisfactory proof of domicile. See New Hampshire Election Procedure Manual: 2020-2021, Pgs. 173-74.

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOHN M. FORMELLA
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

June 14, 2021

Edward McElroy
[REDACTED]

Campton NH 03223

Re: [REDACTED]

Dear Mr. McElroy:

On August 18, 2020, you filed a complaint with this Office against [REDACTED] alleging that he wrongfully voted. Specifically, you alleged that [REDACTED] had registered to vote in Campton, New Hampshire, but that he was not in fact domiciled in Campton. After careful consideration, this Office concludes that no violation of New Hampshire's election law has occurred.

On March 19, 2021, Chief Investigator Richard Tracy spoke with [REDACTED]. They explained that they officially moved to Campton in December, 2020. While they continue to own their home in Natick, Massachusetts, they no longer live at this address. Instead, the residence at this address is occupied by their son and daughter-in-law.

Election records indicate that [REDACTED] did not register to vote until February 8, 2021. [REDACTED] were not registered to vote in New Hampshire prior to this date. Additionally, neither [REDACTED] voted in New Hampshire until March 9, 2021, the date of Campton's town election.

Motor vehicle records confirm that on January 5, 2021, [REDACTED] were issued New Hampshire driver's licenses and surrendered their Massachusetts driver's licenses. Additionally, both vehicles belonging to them were issued New Hampshire motor vehicle registrations and license plates on December 8, 2020. Both their driver's licenses and motor vehicle registrations list their address in Campton.

In New Hampshire, in order to vote in a town, ward, or unincorporated place a person must be domiciled there. A "domicile for voting purposes is that one place where a person, more than any other place, has established a physical presence and manifests an intent to maintain a single continuous presence for domestic, social, and civil purposes relevant to participating in

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Edward McElroy
Page 2 of 2

democratic self-government.” RSA 654:1, I.¹ “A domicile for voting purposes acquired by any person in any town shall not be interrupted or lost by a temporary absence therefrom with the intention of returning thereto as his or her domicile.” RSA 654:2.

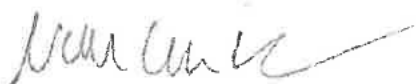
To register a voter the supervisors of the checklist must consider the applicant’s manifestations of intent to maintain a single, continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government. There are many types of documents that satisfy this requirement. Among those documents, election officials have recognized that a New Hampshire driver’s license or non-driver ID showing the applicant’s current domicile address is satisfactory proof of domicile. Similarly, a New Hampshire resident motor vehicle registration showing the applicant’s domicile address is also satisfactory proof of domicile.

In this case, in addition to establishing a physical presence in Campton on or around December, 2020, both [REDACTED] have obtained New Hampshire driver’s licenses and registered their vehicles in this State. They did both of these things prior to registering to vote in Campton on February 8, 2021.

Based on the forgoing, and in light of the analysis outlined above, this Office concludes that [REDACTED] are domiciled in Campton, New Hampshire, and properly claimed this address as their domicile for voting purposes at the time of their voter registration. Additionally, it was proper for them to vote in Campton during its March 9, 2021 town election. Therefore, we have determined that no violation of New Hampshire election law has occurred.

This matter is closed.

Sincerely,



Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
(603) 271-3650
nicholas.chongyen@doj.nh.gov

cc:

[REDACTED]
Campton Town Clerk
Natick Town Clerk

¹ Pursuant to an order issued by the Hillsborough Superior Court in the matter of League of Woman Voters of New Hampshire, et al. v. William M. Gardner, et al., docket number 226-2017-CV-00433, in April of 2020, Laws of 2017, Chapter 205 (also known as “SB3”) was struck down. As a result, the version of RSA Chapter 654 used here is the one in effect in 2016. The version of RSA 654:2 in effect in 2016 did not contemplate the concept of temporary presence, which was added by SB3.

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOHN M. FORMELLA
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

June 14, 2021

[REDACTED]
Thornton, NH 03285

Re: [REDACTED] Alleged Wrongful Voting (2021148443)

Dear [REDACTED]:

On August 18, 2020, this Office received a complaint alleging that you “fraudulently registered to vote” in Thornton, New Hampshire. Specifically, the complainant alleged that, while you claimed to be living in Thornton, you were in fact living in Lowell, Massachusetts. After careful consideration, we have concluded that no violation of New Hampshire’s election laws has occurred.

In making this determination, this Office reviewed several documents forwarded by the complainant, including: a print out from Massachusetts’ “ePlace” website purporting to contain information about your [REDACTED] an email dated July 29, 2020 from Elliott Veloso – City of Lowell’s Interim Director of Elections, an email dated July 29, 2020 from the Lowell City Clerk’s Office in response to the complainant’s public records request, a document dated December 9, 2016 titled [REDACTED] and bearing a [REDACTED] seal for [REDACTED] [REDACTED] a quote purportedly taken from the Waterville Estates’ website and attributed to [REDACTED] a screenshot of your Facebook page taken on July 20, 2020, and the Thornton Alpha Voter List dated 01/24/2020. In addition, this Office also spoke with Thornton Supervisor of the Checklist Mary Pelchat, spoke with Lowell Police Officer John Spinney, reviewed your New Hampshire voter records, reviewed your New Hampshire motor vehicle records, and spoke with you.

On October 8, 2020, the complainant notified this Office that he had reported to the Lowell Police Department’s Officer John Spinney, that you had illegally registered your vehicles in New Hampshire and obtained a New Hampshire driver’s license. Chief Investigator Richard Tracy spoke with Officer Spinney. Officer Spinney shared that he had spoken to you about the report. You explained to Officer Spinney that you were separated from your wife, and were living in New Hampshire. Officer Spinney also learned that you had obtained a New Hampshire driver’s license and registered two vehicles in New Hampshire. Officer Spinney accepted your

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explanation and concluded that a citation for registering your vehicles in New Hampshire was unnecessary.

Your New Hampshire voter records indicate that you registered to vote in Thornton on December 30, 2019. You have not voted in a New Hampshire election since registering to vote in this State. Records obtained from Lowell indicate that you last voted there on November 6, 2018.

On April 14, 2021, Investigator Tracy spoke with Supervisor Pelchat. Supervisor Pelchat indicated that an individual had challenged your qualifications to vote in Thornton. Based on the Asserting a Challenge affidavit, that individual was identified as the complainant in this case. In support of his challenge, the complainant attached an email received from the Interim Director for Lowell Massachusetts Elections. The email indicated that you were a registered, active voter in Lowell. This challenge voter affidavit and accompanying email was reviewed by Thornton Moderator John Piantedosi, who subsequently notified the Supervisors. After receiving this information, the Supervisors decided to remove you from the Thornton voter checklist.

Also on April 26, 2021, Investigator Tracy spoke with you. You indicated that you discovered you were removed from Thornton's voter checklist and did not understand why you remained on the voter rolls in Lowell. You assumed that you would have been removed from the Lowell voter rolls upon registering to vote in Thornton.¹

With respect to your domicile, you indicated that you moved to Thornton approximately two years ago in February, [REDACTED]. Following your move to Thornton, you obtained a New Hampshire driver's license and registered two vehicles using your Thornton address. New Hampshire motor vehicle records confirmed that you obtained your driver's license on February 6, 2019, and also confirmed that you registered two vehicles using your Thornton address.

When you first moved to Thornton in February, 2019, you stated that you were spending the majority of your time in Thornton. When the public health crisis caused by the coronavirus began in March of 2020, you described how you and your two children were living in Thornton. While your children go to a school in Lowell, they attended their classes remotely from Thornton. As the public health crisis began to subside, you shared that your children returned to Lowell to intermittently attend class in-person. You indicated that you would travel from Thornton to Lowell each week to assist your children with remote learning while your wife worked. You stated that during the summer of 2020, you began splitting time between Thornton and Lowell.

In the fall of 2020, when the COVID numbers started to rise again, your children returned full-time to learning remotely. At this point, you explained that you began spending more time in Lowell. This was because your wife works full-time during the day, and you needed to be at the Lowell home to assist the children with their remote classes. On April 26, 2021, your children began returning to school in-person, and you intend to resume living in Thornton.

¹ RSA 654:13 requires that a notice of transfer be sent if the voter was last registered to vote in another New England state.

In New Hampshire, in order to vote in a town, ward, or unincorporated place a person must be domiciled there. A “domicile for voting purposes is that one place where a person, more than any other place, has established a physical presence and manifests an intent to maintain a single continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government.” RSA 654:1, I.² “A domicile for voting purposes acquired by any person in any town shall not be interrupted or lost by a temporary absence therefrom with the intention of returning thereto as his or her domicile.” RSA 654:2.

RSA 654:11 creates a presumption that the applicant is qualified to vote and authorizes the supervisors of the checklist to reject the application only if they conclude that it is more likely than not that the applicant is not qualified. See New Hampshire Election Procedure Manual: 2020-2021, Pg. 170.

The supervisors must consider the applicant’s manifestations of intent to maintain a single, continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government. There are many types of documents that satisfy this requirement. Among those documents, election officials have recognized that a New Hampshire driver’s license or non-driver ID showing the applicant’s current domicile address is satisfactory proof of domicile. Similarly, a New Hampshire resident motor vehicle registration showing the applicant’s domicile address is also satisfactory proof of domicile.³

In this case, you obtained a New Hampshire driver’s license bearing your Thornton address, just over ten months before registering to vote in Thornton. You also registered two of your vehicles using your Thornton address. Since obtaining a New Hampshire driver’s license and registering your vehicles in this State, you told Investigator Tracy that you have been living in Thornton. As for your time in Lowell during the public health crisis to care for your children, this would constitute a temporary absence as defined under RSA 654:2.

Based on the forgoing, and your representation that you are resuming living in Thornton, this Office concludes that you are lawfully domiciled in Thornton. A copy of this letter will be sent to the Thornton Supervisors and Town Clerk. You will need to again register to vote and present proof of your voting qualifications in order to be re-added to Thornton’s voter checklist. This letter is also begin sent to the Lowell City Clerk, to notify that office that you are to be removed from Lowell’s voter rolls.

This matter is closed. Please feel free to contact me if you have any questions.

² Pursuant to an order issued by the Hillsborough Superior Court in the matter of League of Woman Voters of New Hampshire, et al. v. William M. Gardner, et al., docket number 226-2017-CV-00433, in April of 2020, Laws of 2017, Chapter 205 (also known as “SB3”) was struck down. As a result, the version of RSA Chapter 654 used here is the one in effect in 2016. The version of RSA 654:2 in effect in 2016 did not contemplate the concept of temporary presence, which was added by SB3.

³ “A document showing that the applicant owns the place the applicant is domiciled at, such as a deed, property tax bill, or other similar document that has the applicant’s name and address” would also constitute satisfactory proof of domicile. See New Hampshire Election Procedure Manual: 2020-2021, Pgs. 173-74.

Sincerely,



Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
(603) 271-3650
nicholas.chongyen@doj.nh.gov

cc: Edward McElroy
Thornton Supervisors of the Checklist
Thornton Town Clerk
Shannon Gouveia, Lowell City Clerk

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOHN M. FORMELLA
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

June 14, 2021

[REDACTED]
Campton NH 03223

Re: [REDACTED] Alleged Wrongful Voting (2020144475)

Dear [REDACTED]

On August 18, 2020, this Office received a complaint alleging that you "fraudulently registered to vote" in Campton, New Hampshire. Specifically, the complainant alleged that while you claimed to be living in Campton, you were in fact living in Boxford, Massachusetts. After careful consideration, we have concluded that no violation of New Hampshire's election laws has occurred.

In making this determination, this Office reviewed several documents forwarded by the complainant, including: the Campton Alpha Voter List dated 07/10/2020, a spreadsheet titled [REDACTED] displaying the value details for your property in Campton, a print-out of details compiled by the website "mylife.com," a business listing for an organization called [REDACTED] from the website "buzzfile.com," and your Massachusetts voter registration status. This Office also reviewed your New Hampshire motor vehicle records, your New Hampshire voter records, and your Massachusetts voting records. We spoke with Boxford Town Clerk Robin Phelan and spoke with you.

On December 30, 2019, your New Hampshire voter records show you registered to vote in Campton. You listed [REDACTED] as your domicile for voting purposes. You presented an out-of-state driver's license as proof of your identity. You first voted in Campton during the February 11, 2020 Presidential Primary election. You also voted during the 2020 state primary and general elections. You did not vote during Campton's March 9, 2021 town election.

New Hampshire motor vehicle records show that you obtained a New Hampshire driver's license and surrendered your Massachusetts driver's license on January 6, 2020. Additionally, the records show that on March 27, 2020, you registered your vehicle in New Hampshire as well. Both your New Hampshire driver's license and motor vehicle registration show your address as [REDACTED] Drive in Campton.

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On September 17, 2020, this Office received copies of your voter registration and voting history from Boxford Town Clerk Phelan. Clerk Phelan verified that, at the time of this call, you were still listed as a registered voter in Boxford. Your voting history shows that the last time you voted in Boxford was during the November 6, 2018 election. On April 8, 2021, Chief Investigator Richard Tracy spoke with Clerk Phelan, who confirmed that your name had been removed from Boxford's voter checklist.

On October 20, 2020, you contacted Investigator Tracy after learning that he had inquired about your voting status in Boxford. During the conversation, you confirmed that you and your wife own property in both Boxford and Campton. However, you explained that you live predominately in Campton, while your wife lives in Boxford. You stated that this has been the arrangement for the past year.

On April 8, 2021, Investigator Tracy contacted you to follow-up on this matter. You asserted that you have continued to live in Campton, and have obtained a New Hampshire driver's license and registered your vehicle in this State. You confirmed having voted three times in New Hampshire during the 2020 election cycle. You explained that prior to your conversation with Investigator Tracy on October 20, 2020, you were not aware that the Boxford officials had failed to remove you from their voter checklist because you believed the removal process to automatically take place after registering to vote in Campton, New Hampshire. As a result, following your conversation with Investigator Tracy on October 20, 2020, you immediately contacted the Boxford Town Clerk's office and asked to be removed from the voter checklist. Finally, you told Investigator Tracy that you and your wife are considering selling your property in Boxford.

In New Hampshire, in order to vote in a town, ward, or unincorporated place a person must be domiciled there. A "domicile for voting purposes is that one place where a person, more than any other place, has established a physical presence and manifests an intent to maintain a single continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government." RSA 654:1, I.¹

RSA 654:11 creates a presumption that the applicant is qualified to vote and authorizes the supervisors of the checklist to reject the application only if they conclude that it is more likely than not that the applicant is not qualified. See New Hampshire Election Procedure Manual: 2020-2021, Pg. 170.

The supervisors must consider the applicant's manifestations of intent to maintain a single, continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government. There are many types of documents that satisfy this requirement. Among those documents, election officials have recognized that a New Hampshire driver's

¹ Pursuant to an order issued by the Hillsborough Superior Court in the matter of League of Woman Voters of New Hampshire, et al. v. William M. Gardner, et al., docket number 226-2017-CV-00433, in April of 2020, Laws of 2017, Chapter 205 (also known as "SB3") was struck down. As a result, the version of RSA Chapter 654 used here is the one in effect in 2016. The version of RSA 654:2 in effect in 2016 did not contemplate the concept of temporary presence, which was added by SB3.

license or non-driver ID showing the applicant's current domicile address is satisfactory proof of domicile. Similarly, a New Hampshire resident motor vehicle registration showing the applicant's domicile address is also satisfactory proof of domicile.²

In this case, in addition to establishing physical presence in Campton on or before December 30, 2019, you have obtained a New Hampshire driver's license and registered your vehicle in this State. Furthermore, you contacted the Boxford Town Clerk and directed them to remove you from their voter checklist. This evidence taken together, in light of the analysis outlined above, establishes that you are in fact lawfully domiciled for voting purposes in Campton, New Hampshire.

This matter is closed. Please contact me if you have any questions.

Sincerely,



Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
(603) 271-3650
nicholas.chongyen@doj.nh.gov

cc: Edward McElroy
Hannah Joyce, Campton Town Clerk
Campton Supervisors of the Checklist

² "A document showing that the applicant owns the place the applicant is domiciled at, such as a deed, property tax bill, or other similar document that has the applicant's name and address" would also constitute satisfactory proof of domicile. See New Hampshire Election Procedure Manual: 2020-2021, Pgs. 173-74.

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOHN M. FORMELLA
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

June 14, 2021

Linda Guyette, Town Clerk
Town of Peterborough
1 Grove Street
Peterborough, NH 03458

Re: Town of Peterborough, 2020 November General Election Complaints
(2020145901)

Dear Clerk Guyette:

During the November 3, 2020 General Election, this Office received three complaints regarding the alternative voting option available at the Town of Peterborough's polling place. The three complainants shared that there was no ballot box available in the alternative voting area. Voters reported that after completing their ballot, the election officials held onto the completed ballot until the voter left, after which it was cast into the ballot box inside the polling place.

Marc Cramer reported that he waited in a line to enter the polling place for approximately thirty minutes without a mask. He observed election officials walking up and down this line, passing him several times, yet not telling him that a mask was required to enter the polling place. It was not until Mr. Cramer reached the front of the line that he was told he could not enter unless he wore a mask. Ultimately, Mr. Cramer accepted the alternative voting option offered by election officials. The alternative voting area was on the side of the building. Mr. Cramer reported that once an election official met with him, the official asked multiple times why he (Mr. Cramer) would not wear a mask, and did not initially offer the voting alternative. Mr. Cramer explained to the Moderator that he simply wanted to vote using whatever alternative was available. He estimated between speaking to this official and waiting in this side area, he was there for one hour, without having received a ballot. He was ultimately allowed into the atrium of the building to vote, without a voting booth, and with two election officials standing behind him. Mr. Cramer described how he was told to give the completed ballot to the election officials, and was not allowed to put the ballot into the ballot box himself. He had concerns about not knowing whether his ballot was in fact placed into the ballot box

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On November 6 and 9, 2020, you provided this Office with information regarding the alternative voting option available at the Peterborough polling place during the November General Election.

You acknowledged that due to heavy poll traffic, it did take some time to respond to voters who had been directed to the alternative voting area. Most of the time, a police officer would escort voters unable or unwilling to wear a mask, inside the Food Pantry lobby/atrium while they waited for you to bring them a ballot. However, you explained there was one instance when the officer was not available because there was an incident outside the polls requiring the officer's attention. You stated election officials made every effort to get to the voters unable or unwilling to wear a mask as quickly as possible, but it was at times difficult, given the significant demands of this election cycle.

With respect to the alternative voting area, you confirmed that there was no ballot box inside the Food Pantry lobby. Once the voter was finished voting, he/she handed you his/her ballot, at which time it was promptly walked over to the voting machine to be deposited. You described how there are windows on the Food Pantry lobby doors, which would permit a voter to observe you deposit his/her ballot.

As for the process of dealing with voters unable or unwilling to wear a mask, you stated that election officials were instructed to make sure that voters were wearing a mask and, if they were not, to offer them a mask. If the voter still refused to wear one, election officials were to instruct the voter to go to the Food Pantry doors at the front of the building where you would meet him/her.

You further explained that you checked-in the voters in the alternative voting area and also gave them their ballots. You waited at the other end of the Food Pantry lobby until the voter finished voting, after which, the voter would hand you his/her ballot. The voter had the option to watch you walk his/her ballot over to the ballot counting device or simply leave the building.

With respect to matter of a ballot box not being present in the alternative voting area, our guidance indicated it was acceptable for election officials to utilize a separate ballot box in the event they utilized a separate ballot box for those unable or unwilling to wear a face covering or mask. The guidance also stated that it was permitted for officials to periodically take this ballot box inside to transfer cast ballots into their ballot counting device. The State's election officials have consistently and routinely carried out New Hampshire's elections with the highest degree of integrity, diligence, and security. We have every confidence that the moderator ensured that the ballots in this case were cast into the ballot counting device.

On August 20, 2020, the Attorney General's Office published memorandum outlining guidelines to follow if an alternative voting area was utilized. Specifically, an alternative option that "must allow the voter to register and vote efficiently, privately, and in a manner that best allows the realization of the full extent of that voter's right to vote." Attorney General's Supplemental Guidance on 2020 Election Operations, Pg. 5. "The alternative cannot, through inefficiency or difficult of use, make it harder for a non-face covered voter to register and vote." Id.

We acknowledge that the unprecedented challenges presented by the public health crisis imposed increased burdens upon election officials during an already busy election cycle. The reports received by this Office following the election were a testament to the tremendous efforts of election officials in ensuring the 2020 election cycle was conducted safely.

Nonetheless, given the three complaints received by this Office, and the information you provided, the deficiencies in Peterborough's alternative voting area must also be acknowledged. Not only were voters in this area without similar privacy as the inside voting area, but wait times for voters unable or unwilling to wear a mask appeared to have been longer compared to masked voters.

While this Office did not obtain any evidence to suggest a voter's ballot was not counted, or a voter who was unable or unwilling to wear a mask was deterred from voting, the above deficiencies led to negative voting experiences of some voters. Both the Secretary of State and Attorney General publish guidance to ensure officials are equipped to handle the unique challenges that appear for each election. It is important that this guidance is followed as is reasonably practicable to ensure the consistency of a voter's voting experience in every polling place.

This matter is closed. Please feel free to contact me if you have any questions.

Sincerely,



Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
(603) 271-3650
nicholas.chongyen@doj.nh.gov

cc: Town of Peterborough Moderator
Marc Cramer

000098

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOHN M. FORMELLA
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

June 28, 2021

Kevin Federico
[REDACTED]

Milford, NH 03055

Re: Political Advertisements and Identification, Registration, and Reporting
Requirements (2021148257)

Dear Mr. Federico:

On March 7, 2021, this Office received a complaint regarding a mailer that had been received by households in the Town of Milford. On the front of the mailer was the message "Vote YES to Warrant Article 3." While the mailer indicates that it was "Paid for by Private Donations," it does not otherwise identify who is responsible for it. The complaint alleges that this is a violation of RSA 664:14. The complainant was also concerned local officials may be responsible for the mailer because the artwork and typeface were similar to the brochures posted on the Facebook pages of Milford Police, Fire, and Ambulance Service departments.

On March 8, 2021, the complainant supplemented his complaint, providing photos of two yard signs that did not contain the identification information required by RSA 664:14. One sign had a check box on it with the message: "VOTE!!! YES on 3; SUPPORT OUR FIRST RESPONDERS." The second sign displayed the message "Support your First Responders. VOTE YES on Question 3."

On March 24, 2021, Chief Investigator Richard Tracy and I spoke with you about these signs and this mailer. During the conversation you explained that you were responsible for creating both the above-described signs as well as the mailer. You were clear that no official or employee of the Town was involved with the development or creation of these materials.

However, while you indicated that the Town did not fund this project, you solicited funding from five other Milford residents who were in support of voting "Yes" on Article 3, and who helped pay for the signs and the mailer. The money contributed by these individuals helped to pay for the printing and mailing of the mailers, as well as the creation of the yard signs.

You estimated that you spent less than \$500.00 on the yard signs and less than \$100.00 to have the mailers printed and mailed out.

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Please be advised, under RSA 664:14, political advertising must be “signed at the beginning or the end with the names and addresses of the candidate, his fiscal agent, or the name and address of the chairman or the treasurer of a political committee, or the name and address of a natural person, according to whether a candidate, political committee, or natural person is responsible for it.”

RSA 664:2, VI defines “political advertising” as any communication, including buttons or printed material attached to motor vehicles, which expressly or implicitly advocates the success or defeat of any party, measure or person at any election.

With respect to implicit advocacy, as referenced in RSA 664:2 and implemented through RSA 664:14, the United States District Court for New Hampshire held that the term “implicitly” was unconstitutional. Stenson v. McLaughlin, No. CIV. 00-514-JD, 2001 WL 1033614, at *7 (D.N.H. Aug. 24, 2001). As a result, the Court struck the term “implicitly” from RSA 664:2, VI and prohibited its use when enforcing RSA 664:14.

In this case, the two signs and the mailer would constitute “political advertising” within the meaning of RSA 664:2, VI, because they expressly advocated for the success of Warrant Article 3 (a “Yes” vote).

We acknowledge that the Court has recognized the First Amendment protects the anonymity of political speech when conducted by an individual. See McIntyre v. Ohio, 514 U.S. 334 (U.S. 1995).¹

Unlike in McIntyre, the signs and mailers in this case were funded through the cooperation of a group of individuals, and not you alone. As a result, the constitutional protection of anonymity would not apply.

In the future, should you create and publish any political advertising consistent with the analysis above, you must ensure it contains the appropriate identification information under RSA 664:14.

Additionally, we also direct your attention to RSA 664:2, III, which outlines what constitutes a “political committee.” According to this statute, the following would constitute a political committee:

- Any organization of 2 or more persons that promotes the success or defeat of a candidate or candidates or measure or measures, including the political committee of a political party;
- Any segregated fund established by any organization the purpose of which is to promote the success or defeat of a candidate or candidates or measure or measures;

¹ In the twenty-six years since McIntyre, many courts (including one within our federal circuit) have narrowed its application and upheld advertising disclosure requirements, even against individuals. See Bailey v. State, 900 F. Supp. 2d 75, 85-87 (D. Me 2011); Citizens United v. FEC, 558 U.S. 310, 366-71 (2009).

Kevin Federico

Page 3 of 3

- Any organization that has as its major purpose to promote the success or defeat of a candidate or candidates or measure or measures and whose receipts or expenditures total \$2,500 or more in a calendar year for that purpose;
- Any segregated fund that is voluntarily registered with the secretary of state for the purpose of reporting its receipts and expenditures under this chapter or any organization that voluntarily registers with the secretary of state, without regard to whether such segregated fund or organization meets the receipt or expenditure thresholds described in this paragraph.

If a group of persons meets any of these definitions, they may constitute a political committee. If a group constitutes a political committee, they are subject to registration and reporting requirements outlined under RSA 664:3 and 664:6 respectively. This includes registering as a political committee with the Secretary of State "not later than 48 hours after the committee meets at least one of the criteria under RSA 664:2, III." RSA 664:3, I.

We hope this information will prove useful to you in the future. This matter is closed. Please feel free to contact me if you have any questions.

Sincerely,



Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
(603) 271-3650
nicholas.chongyen@doj.nh.gov

cc: Paul Bagley

000101

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOHN M. FORMELLA
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

June 28, 2021

Representative Norman J. Silber
243 Mountain Drive
Gilford, NH 03249

Re: Challenged Voter, [REDACTED]

Dear Representative Silber:

On March 8, 2021, this Office was contacted by officials from the Town of Gilford regarding a challenge you submitted against the voting qualifications of [REDACTED]. The officials inquired about how to proceed, since the challenge was to disqualify [REDACTED] due to a conviction of a New Hampshire election law. Specifically, [REDACTED] pled guilty on December 8, 2020, to a violation-level, non-criminal offense of RSA 664:17 for the removal of a political sign.

This Office informed the Gilford officials that they must consult with their town counsel on how to proceed. However, had this challenge been brought to the attention of this Office during election day, we would have concluded that [REDACTED] would have been permitted to vote.

RSA 659:27-a provides that even where a voter is properly challenged and the moderator has ruled that the challenge is well grounded, "the challenged person may vote only if he or she completes and swears to a challenged voter affidavit." RSA 659:27-a, I.

However, in this case, given that the underlying conviction was a violation-level, non-criminal offense, it would not trigger the termination of the right to vote under Part I, Article 11 of the New Hampshire Constitution.

Part I, Article 11 of the New Hampshire Constitution prohibits a person from voting if he/she has been convicted of "any willful violation of the election laws of this state or of the United States." N.H. Const. Part I, Art. 11.

"Willful" means that the person acted "knowingly" while committing the offense. RSA 626:2, IV.

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In [REDACTED]'s case, his conviction for violating RSA 664:17 (Removal of Political Advertising) was for a violation-level offense.

Under RSA 625:9, II(b), “[a] violation does not constitute a crime and conviction of a violation shall not give rise to any disability or legal disadvantage based on conviction of a criminal offense.” (emphasis added). See State v. Dery, 134 N.H. 370, 377 (1991) (“[T]he New Hampshire Criminal Code ... [makes] every offense either a felony, a misdemeanor, or a violation. Felonies and misdemeanors are crimes. Violations are not.”) See also State v. Auger, 147 N.H. 752, 754 (2002) (Holding that a defendant’s suspended sentences could not be imposed upon proof that he committed a violation-level offense.)

Additionally, RSA 626:2, I states that a person may be guilty of a violation without regard to “culpability” or “mental state” that is normally required of other classes of offense (*i.e.* felonies and misdemeanors).

A conviction for a violation-level offense of election law would not constitute a “willful violation” that would prevent a voter from voting under the State Constitution. The above analysis will be followed by this Office in the event we are contacted during an election day regarding a challenge against [REDACTED]'s ability to vote on the grounds of disqualification pursuant to Part I, Article 11 of the New Hampshire Constitution.

Sincerely,



Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
(603) 271-3650
nicholas.chongyen@doj.nh.gov

cc:

[REDACTED]
Attorney Laura Spector-Morgan, Gilford Town Counsel

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOHN M. FORMELLA
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

June 28, 2021

Kathleen Pelissier, Town Clerk
Town of Allentown
16 School Street
Allentown, NH 03275

Supervisors of the Checklist
Town of Allentown
16 School Street
Allentown, NH 03275

Re: Voter Registration and Citizenship Qualification (2021148390)

Dear Clerk Pelissier and Supervisors:

On April 1, 2021, this Office received a complaint from [REDACTED] alleging "[w]idespread [f]raud in Allentown [sic] NH." [REDACTED] was concerned that only certain individuals were being required by Allentown officials to provide proof of citizenship when registering to vote. After careful consideration and review of the applicable statutes, we conclude that no violation of New Hampshire's election laws has occurred, and there is no evidence of fraud. We further conclude that the voter registrants' applications that were accepted and processed prior to the complaint being submitted are valid and the applicants do not need to be re-registered. However, we encourage officials to consult with their town counsel as outlined in the analysis below.

[REDACTED] provided this Office a copy of the email exchange she had with Clerk Pelissier on March 10, 2021. [REDACTED] was upset that [REDACTED] was not asked for proof of citizenship, and yet she was repeatedly asked for her naturalization papers. [REDACTED] stated, and ElectionNet confirmed, that she has previously registered to vote in other towns in New Hampshire. [REDACTED] described this official as stating that naturalization papers are required for people born outside the United States.

Clerk Pelissier provided a response, outlining the applicable law, RSA 654:12. Her email stated in part:

"Acceptable forms of proof which may be requested are naturalization papers, a passport, a birth certificate, or a qualified voter affidavit such as the one that you completed. This is further explained by NH RSA 654:12 in NH voter registration laws. This is standard legal procedure for all new voter registrations which indicate a birth place outside of the country, regardless of race, but

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not regularly required for those applicants born within the country, as they are citizens by birth according to United States law, again, regardless of race or skin color. [...] This circumstance, however, is not a case of poor training or mistake of law comprehension on our Supervisors part. They did their job correctly and in accordance with the laws that apply to all voter registrations”

██████████ responded, observing that the explanation seemed to waive the proof of citizenship requirement for certain citizens, while enforcing it for others. Clerk Pelissier replied in relevant part as follows:

“The RSA allowing the Supervisors to accept the written declaration on the voter registration of their birth within the country as adequate proof of citizenship is in RSA 654:12 as stated in my previous response, “...any other reasonable documentation...” It is not unreasonable or discriminatory for them to request further documentation from anyone born outside of the country and thus not an automatic American citizen by birth pursuant to the citizenship laws of this country. This procedure is followed for ALL citizens, ALL the time, again, as stated in my multiple previous responses. You were not treated any different than applicants who applied before you or any different than applicants who will apply after you. If a birthplace inside the USA is listed by the applicant, the person’s written declaration upon the voter registration form will be sufficient in accordance with the law. If an applicant declares a birth place out of the country, they will be asked for their naturalization papers, passport, birth certificate or any other reasonable documentation that the Supervisors choose to accept. Again, per RSA 654:12.”

(emphasis added).

While the interpretation offered by Clerk Pelissier is detailed and thorough, this Office cautions the Allenstown election officials since this interpretation may be subject to challenge by a voter.

RSA 654:12 states in relevant part that “[w]hen determining the qualifications of an applicant, the supervisors of the checklist, or the town or city clerk, shall require the applicant to present proof of citizenship, age, and domicile.” (emphasis added).

While it is true that RSA 654:12, I(a) states the supervisors may accept “any other reasonable documentation which indicates the applicant is a United States citizen,” it is questionable whether this would include a voter registration form.

RSA 654:7, II states that “[t]he applicant shall be required to produce appropriate proof of qualifications as provided in RSA 654:12 and fill out the form as prescribed in paragraph IV.”

(emphasis added). This suggests that in addition to completing the voter registration form, an applicant must also provide appropriate proof of their qualifications to vote. In other words, the voter registration form alone may not be sufficient proof of citizenship. Were this the case, arguably, the voter registration form would itself be sufficient to prove age, identity, and domicile as well.

Additionally, guidance offered in the New Hampshire Election Procedure Manual: 2020-2021, does not outline different processes for voters born inside the United States, from those born outside the country.

“The law has not changed for in person applicants for voter registration. Applicants registering in person with the clerk or supervisors have to provide proof of identity, age, US Citizenship, and domicile. In-person applicants who do not have proof with them when registering must be given the opportunity to use a Qualified Voter Affidavit (identity, age, citizenship) or Domicile Affidavit (domicile) to provide proof.”

(emphases added). New Hampshire Election Procedure Manual: 2020-2021. Pg. 4. See Pg. 27 (“To register, you will need to provide proof of your identity, age, citizenship, and domicile. Proof can be either by documents or if you do not have documents with you, by affidavit. Documents may be presented in paper or electronic form.”)¹ See also Pg. 44 (“Supervisors must require an applicant to prove citizenship...”)

The manual also provides a summary of documents that constitute satisfactory proof of citizenship. Relevant here is Pg. 308, which identifies acceptable proof documents for both citizens born in the United States and citizens born outside the country. This list does not include the voter registration form.

It is also important to note, that “[i]f ElectionNet is in use when a person is registering and the election official can determine that the person applying for registration as a voter is currently registered as a voter in another New Hampshire town or ward, the applicant does not have to reprove age or citizenship.” Id. at 44. (emphasis added).

Ultimately, as an enforcement authority, this Office cannot provide legal advice. Should a challenge arise from the Allenstown supervisors’ or other election officials’ interpretation of required proofs of qualifications to vote, it would be town counsel, not the State, that would represent the Town. As a result, we strongly encourage you to consult with town counsel about the issues outlined above.

We greatly appreciate your service to the voters of Allenstown and the best efforts by Allenstown officials in ensuring the integrity of our elections.

¹ While proof of citizenship must be requested of all voters, the guidance states that where a naturalized citizen is registering to vote, “[n]aturalization papers may be requested of a naturalized citizen. If Naturalization papers are not available, the person may complete a Qualified Voter Affidavit.” New Hampshire Election Procedure Manual: 2020-2021, Pg. 42.

This matter is closed. Please contact me if you have any questions.

Sincerely,



Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
(603) 271-3650
nicholas.chongyen@doj.nh.gov

cc:


Orville Fitch, Assistant Secretary of State

ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOHN M. FORMELLA
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

June 28, 2021

Friends of Senator French

Webster, NH 03303

Re: Friends of Senator French, Alleged Campaign Finance Violation (2020145201)
Warning Letter

Dear Senator French:

On August 31, 2020, this Office received a complaint from Johnna Davis, dated August 28, 2020. Ms. Davis alleged that you violated RSA 664:6, II by not filing your Statement of Receipts and Expenditures for the August 19, 2020 reporting period by its deadline, also on August 19, 2020.

In reviewing this filing, this Office observed that it was stamped "RECEIVED" by the Secretary of State's Office on September 1, 2020. This is nine weekdays after the August 19, 2020 deadline.

This Office also reviewed your candidate committee's other filings for the 2020 election cycle. Among the nine filings for this period, four other statements were filed after the deadline:

- (1) the statement due June 5, 2019, was marked received by the Secretary of State's Office on June 7, 2019;
- (2) the statement due June 17, 2020, was marked received by the Secretary of State's Office on June 26, 2020;
- (3) the statement due September 2, 2020, was marked received by the Secretary of State's Office on September 17, 2020; and
- (4) the statement due September 16, 2020, was marked received by the Secretary of State's Office on September 17, 2020.

RSA 664:6, I mandates that "[s]tatements shall be filed not later than the first Wednesday in June and December after the state general election and before the filing deadline established in RSA 655:14."

Senator Harold French
Page 2 of 2

RSA 664:6, II requires a political committee to file an itemized statement “with the secretary of state not later than the Wednesday three weeks immediately preceding a primary and a general election, before 5 o'clock in the afternoon.”

RSA 664:6, III further requires a political committee to file an itemized statement “summarizing the previous statements if such statements are filed and itemizing all receipts and expenditures since the cutoff of the previous report and ending on the day of the primary or the general election with the secretary of state not later than the second Wednesday after the election, before 5 o'clock in the afternoon.”

Please be advised that failure to comply with these filing deadlines may result in further enforcement action by this Office.¹

This matter is closed. Please feel free to contact me if you have any questions.

Sincerely,



Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
(603) 271-3650
nicholas.chongycn@doj.nh.gov

cc: Johanna Davis
William M. Gardner – Secretary of State

¹ See RSA 664:21, IV (“[A]ny person who fails to file any report or statement on the date on which the report or statement is due under this chapter shall be subject to a daily fine of \$25 for every weekday for which the report or statement is late and until the report or statement is actually filed, except that candidates for the general court shall be subject to a daily fine of \$5 under this paragraph.”)

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOHN M. FORMELLA
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

June 28, 2021

[REDACTED]
Lafayette CO 80026

Re: [REDACTED] Alleged Wrongful Voting (2020146045)

Dear [REDACTED]

On or around November 13, 2020, this Office was notified by the Derry Town Clerk that a complainant alleged that you wrongfully voted during the November 3, 2020 general election because at the time, you were no longer domiciled in Derry, but in Colorado.

On November 13, 2020, you spoke with Chief Investigator Richard Tracy and confirmed that you did, in fact, vote absentee in Derry during the November 3, 2020 general election. You explained that prior to the election, you visited Colorado on or about January 2020 to take a temporary job at the [REDACTED]. You continued to maintain your domicile in Derry. The employment contract was scheduled for 400 hours and scheduled to end sometime in the spring of 2020.

During the November 2020 general election, you stated that you voted absentee in Derry because if you lost the job, you would need to move back to Derry, which is why you continued to maintain the Derry address. You indicated that due in large part to the pandemic, you were uncertain whether your part-time job would actually last. You also expressed concerns about standing in line to register and vote in Colorado during the pandemic. You assured Investigator Tracy that if you remained in Colorado you would register and vote in Colorado.

On February 8, 2021, Investigator Richard Tracy searched motor vehicle records and verified that you still possessed both a valid New Hampshire Driver's License and a New Hampshire motor vehicle registration for your car.

In New Hampshire, in order to vote in a town, ward, or unincorporated place a person must be domiciled there. A "domicile for voting purposes is that one place where a person, more than any other place, has established a physical presence and manifests an intent to maintain a single continuous presence for domestic, social, and civil purposes relevant to participating in

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democratic self-government.” RSA 654:1, I.¹ “A domicile for voting purposes acquired by any person in any town shall not be interrupted or lost by a temporary absence therefrom with the intention of returning thereto as his or her domicile.” RSA 654:2.

To register a voter the supervisors of the checklist must consider the applicant’s manifestations of intent to maintain a single, continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government. There are many types of documents that satisfy this requirement. Among those documents, election officials have recognized that a New Hampshire driver’s license or non-driver ID showing the applicant’s current domicile address is satisfactory proof of domicile. Similarly, a New Hampshire resident motor vehicle registration showing the applicant’s domicile address is also satisfactory proof of domicile.

In this case, during the November 3, 2020 general election, you continued to maintain your New Hampshire Driver’s License and motor vehicle registration. Additionally, while you did move to Colorado, given the uncertainty surrounding your employment and the purpose of your visit to Colorado being the pursuit of temporary job opportunities, we do not believe the evidence shows that you established domicile in Colorado. As a result, this Office concludes that you were domiciled and appropriately voted in Derry during the November 3, 2020 General Election.

Please note, if you are no longer domiciled within the meaning of RSA 654:1 in Derry or any town in New Hampshire, you may no longer vote in this State unless and until you re-establish your domicile in New Hampshire.

This matter is closed. Please contact me if you have any questions.

Sincerely,



Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
(603) 271-3650
nicholas.chongyen@doj.nh.gov

cc: Daniel Healey, Town of Derry

¹ Pursuant to an order issued by the Hillsborough Superior Court in the matter of League of Woman Voters of New Hampshire, et al. v. William M. Gardner, et al., docket number 226-2017-CV-00433, in April of 2020, Laws of 2017, Chapter 205 (also known as “SB3”) was struck down. As a result, the version of RSA Chapter 654 used here is the one in effect in 2016. The version of RSA 654:2 in effect in 2016 did not contemplate the concept of temporary presence, which was added by SB3.

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOHN M. FORMELLA
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

August 24, 2021

James H. Adams, Selectman
Town of Pittsfield
PO Box 1
Pittsfield, NH 03263

Re: Pittsfield School District Superintendent, Alleged Illegal Campaign Activity
(2021147813)

Dear Selectman Adams:

On March 1, 2021, you sent to this Office a complaint against Pittsfield School District's Interim Superintendent, John Graziano. In your complaint, you allege that, on or about February 28, 2021, Superintendent Graziano engaged in unlawful electioneering by sending a voicemail message to families of students, telling them to vote "No" on Article #3. After careful consideration, we have concluded that no violation of New Hampshire's election laws occurred.

On March 9, 2021, a copy of your complaint was forwarded to Superintendent Graziano for a response. On March 16, 2021, counsel for the Pittsfield School District – Attorney Barbara Loughman – responded on behalf of Superintendent Graziano. A copy of Attorney Loughman's response is enclosed.

Your complaint alleges a violation of RSA 659:44-a, which prohibits electioneering by public employees:

RSA 659:44-a provides that "[n]o public employee, as defined in RSA 273-A:1, IX, shall electioneer while the in the performance of his or her official duties or use government property, including, but not limited to, telephones, facsimile machines, vehicles, and computers, for electioneering." The statute also defines electioneering as "to act in any way specifically designed to influence the vote of a voter on any question or office." A public employee is defined as "any person employed by a public employer" with some limited exceptions. RSA 273-A:1, IX. Those exceptions are:

(a) Persons elected by popular vote;

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- (b) Persons appointed to office by the chief executive or legislative body of the public employer;
- (c) Persons whose duties imply a confidential relationship to the public employer; or
- (d) Persons in a probationary or temporary status, or employed seasonally, irregularly or on call. For the purposes of this chapter, however, no employee shall be determined to be in a probationary status who shall have been employed for more than 12 months or who has an individual contract with his employer, nor shall any employee be determined to be in a temporary status solely by reason of the source of funding of the position in which he is employed.

In response to your complaint, Attorney Loughman argues that the prohibition against electioneering under RSA 659:44-a cannot be imposed in this case because Superintendent Graziano does not constitute a "public employee" within the meaning of RSA 273-A:1, IX. We agree.

RSA 273-A:1, IX exempts those persons "whose duties imply a confidential relationship to the public employer." In the case of a superintendent of schools, the position is at its core managerial. N.H. Code Admin. R. Ed 302.01 states that "[t]he superintendent shall be responsible for planning and managing the administrative and leadership services of the local school district or districts within the school administrative unit subject to statutory requirements, these rules, and the policies of the local districts." The responsibilities include, but are not limited to oversight for: personnel, finance, communication/community relations, and student service. N.H. Code Admin. R. Ed 302.01, (d).

The New Hampshire Supreme Court has adopted the following definition of "confidential employee": "those [employees] who have access to confidential information with respect to labor relations, negotiations, significant personnel decisions and the like." Appeal of City of Laconia, 135 N.H. 421, 422 (1992).

Given the duties of the superintendent over labor relations with teachers' unions, negotiations, and personnel decisions, the individual in that position would necessarily have a confidential relationship with the school board (or school administrative unit).

Based on the forgoing, this Office concludes that Superintendent Graziano does not constitute a public employee pursuant to RSA 273-A:1, IX, and, consequently, is exempt from the prohibition under RSA 659:43-a against electioneering by public employees. Given this determination, it is unnecessary to determine whether the voicemail message would have constituted "electioneering."

This matter is closed. Please feel free to contact me should you have any questions.

Sincerely,



Nicholas A. Chong Yen

Selectman James Adams
Page 3 of 3

Assistant Attorney General
Election Law Unit
(603) 271-3650
nicholas.chongyen@doj.nh.gov

cc: Attorney Barbara Loughman, Pittsfield School District

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOHN M. FORMELLA
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

September 1, 2021

Matthew NORMAND, City Clerk
Office of the City Clerk
One City Hall Plaza
Manchester, NH 03101

Re: [REDACTED] Alleged Wrongful Voting (2021147267)

Dear Mr. Normand:

On January 29, 2021, you contacted this Office alleging that [REDACTED] may have voted twice during the November 3, 2020, general election. After careful consideration, we have determined that no violation of New Hampshire's election laws has occurred.

In reaching this determination, we reviewed documents you sent including:

1. An absentee ballot checklist and report;
2. City of Manchester Official Checklist page 138 for Ward 11;
3. Ward 11 absentee ballot checklist;
4. Same day Ward 4, voter registration checklist; and
5. New Hampshire Voter Registration Form, completed by [REDACTED]

Investigator Richard Tracy also spoke with [REDACTED] JoAnn Ferruolo (Assistant City Clerk, Office of the City Clerk), Beverly Derome (Deputy Registrar, City of Manchester, Ward 4), and Lucille Forest (Moderator, City of Manchester, Ward 11).

[REDACTED] voted twice—once by absentee ballot in Ward 11 and once in person at the Ward 4 polling place. However, it appears that the double vote was the result of miscommunication and misunderstanding.

Other than [REDACTED]'s recollections, there are no other direct testimonial accounts of [REDACTED]'s actions and statements leading to her casting two ballots. That said, the documentary evidence is consistent with [REDACTED]'s account as well as with the circumstances and practices attested to by election officials.

On August 11, 2021, Investigator Tracy spoke with [REDACTED]. She explained that she used to live at [REDACTED] and that around March, 2020 she moved to her current address of [REDACTED]. She explained that she requested an absentee ballot, received it, and then returned it to the City Clerk's office. [REDACTED] stated that she provided the City Clerk's office with her new address on [REDACTED] when she applied for her absentee ballot.

[REDACTED] stated that several days prior to the election she received a call from an unknown man who explained that her absentee ballot might not be counted and that she should consider voting in person.

Based on that call, [REDACTED] stated that on election day, she went to the Ward 4 polls, spoke to a female election official, explained her absentee ballot submission and the subsequent call, and made clear that she did not want to get in any trouble for voting twice. [REDACTED] told Investigator Tracy that the election official advised her that she was all set to register and vote in person that day. [REDACTED] recalled filling out some paperwork, receiving her ballot, and voting.

The documentary evidence is consistent with [REDACTED]'s account. It shows that [REDACTED] requested an absentee ballot on September 4, 2020, which was mailed to her on October 6, 2020, and returned by her on October 19, 2020. The absentee ballot checklist indicates that [REDACTED]'s address is [REDACTED] which is in Ward 11. However, the absentee ballot report lists [REDACTED]'s residence as [REDACTED] which is in Ward 4.

The City of Manchester Official Checklist page 138 for Ward 11 contains [REDACTED]'s name with an address of [REDACTED]. Her name is checked off with "AB" next to it, which indicates that she voted absentee in Ward 11.

The Ward 11 absentee ballot checklist contains a crossed out handwritten note next to [REDACTED]'s name—"ballot out of envelope". The absentee ballot report indicates that on September 4, 2020, [REDACTED] made an in-person request for an absentee ballot to be mailed to her address of [REDACTED]. That ballot was mailed to her on [REDACTED] on October 6, 2020.

The same day Ward 4, voter registration checklist contained the name of [REDACTED] of [REDACTED].

The New Hampshire Voter Registration Form provided by the Manchester City Clerk's office was completed with the following information: [REDACTED] DOB [REDACTED] of [REDACTED] Manchester formerly of [REDACTED] Manchester. The "Received By" line on the Registration Form contained the signature of "B. Derome".

During an interview, Ms. Ferruolo advised Investigator Tracy that the City of Manchester conducted absentee ballot preprocessing at the Center of New Hampshire

Armory building on Saturday, October 31, 2020. There were multiple observers present. Ms. Ferruolo stated that the City Clerk's Office did not have the bandwidth to call voters whose absentee ballots might not be counted for one reason or another. However, she advised that several observers were taking it upon themselves to contact voters to notify them that their absentee ballots may not be counted. This was further verified during an interview with Ms. Forest, in which she stated that during absentee ballot preprocessing observers were making phone calls to voters whose absentee ballots were questioned or might not be counted.

Ms. Ferruolo also stated that [REDACTED]'s absentee ballot was sent back to Ward 11 for processing because her address was not updated in ElectionNet and still showed [REDACTED] as her domicile.

Ms. Derome helped register same-day voters at Ward 4 in Manchester on November 3, 2020, for the general election. Although she had no specific memory of interacting with [REDACTED] Ms. Derome did process and sign [REDACTED]'s same day voter registration in Ward 4. Ms. Derome stated that her supervisor instructed her that for any voter registering on election day, if his/her name was not on the checklist and provided he/she was qualified to do so, the voter would be allowed to register and vote. Because it had not been updated from her prior address in Ward 11, [REDACTED]'s name was not on the Ward 4 checklist, therefore she was allowed to register and vote by election officials.

The records confirm that [REDACTED] voted twice—once by absentee in Ward 11 and once in person at the Ward 4 polling place. However, it appears that the double vote was the result of miscommunication. The error likely occurred at the time that [REDACTED] requested her absentee ballot. Whether by a misunderstanding of [REDACTED] or by the City Clerk's office, [REDACTED] supplied her current address and either did not clarify that she no longer lived at [REDACTED] or the clerk failed to understand that [REDACTED] was living at a new address, and was not asking that her absentee ballot be sent to a non-domicile address.

This error was compounded by the simple fact that [REDACTED] reported to her proper polling place based on her Ward 4 domicile, but because of the failure to specify the correct address, that polling place had no record of her as a voter. Consistent with the polling place procedure, as [REDACTED]'s name did not appear on the checklist, she was allowed to register and vote. She did so.

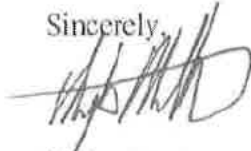
In New Hampshire, in order to vote in a town, ward, or unincorporated place a person must be domiciled there. A "domicile for voting purposes is that one place where a person, more than any other place, has established a physical presence and manifests an intent to maintain a single continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government." RSA 654:1, I. Domicile for the purpose of voting as defined in RSA 654:1, once existing, continues to exist until another such domicile is gained. RSA 654:2.

██████████ changed her domicile from ██████████ to ██████████ but it is clear that that change was not recorded in City records. Through what reasonably appears to be a communication error the City Clerk did not record that change of domicile. The result was ██████████'s apparently good faith basis to ensure that she voted in the General Election—a commitment that resulted in two votes.

In light of the documents and interviews discussed above, this Office concludes that there is no evidence indicating that ██████████ had the intent to vote twice in the same election. As a result, this Office further concludes that there has been no violation of New Hampshire's election laws in this case.

This matter is closed. Please feel free to contact me if you have any questions.

Sincerely,



Myles Matteson
Deputy General Counsel
New Hampshire Department of Justice
Election Law Unit
(603) 271-1119
myles.b.matteson@doj.nh.gov

cc:

██████████
JoAnn Ferruolo
Lucille Forest

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOHN M. FORMELLA
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

September 23, 2021

Debra Paul, Publisher
Nutfield Publishing
[REDACTED]
Londonderry, NH 03053

Re: Advertisement published concerning Sara Loughlin (2021148027)
Second Warning for Violation of RSA 664:16

Dear Ms. Paul:

On March 12, 2021, the Attorney General's Office received a complaint related to a political advertisement in the Londonderry Times that did not contain required "paid for by" language. The ad was in support of Sara Loughlin for Londonderry School Board. The Londonderry Times is a newspaper publication, owned and operated by your company, Nutfield Publishing.

On March 15, 2021, Chief Investigator Richard Tracy spoke with Ms. Loughlin about the ad she placed in the Londonderry Times promoting her run for the school board. The ad did not contain information as to who was responsible for the ad or a related address. Ms. Loughlin forwarded Investigator Tracy a string of email exchanges that she had with you about placing her ad in your paper. This string of emails included your recommendations regarding the design of the advertisement. Investigator Tracy discussed the requirements of RSA 664:16 "Identification of Political Advertising" with Ms. Loughlin.

On August 10, 2021, Investigator Tracy spoke with you. He pointed out to you that the ad did not contain the required "paid for" information. Investigator Tracy reminded you that ads in your paper are required by RSA 664:16 to contain "paid for" language.

Previously, on March 28, 2019, you received a warning letter from this Office regarding violations of RSA 664:14 and RSA 664:16. That letter concerned your filing of advertising rates with the secretary of state as well as political advertisements supporting your own run for office, which did not comply with the statutory requirements of RSA 664:14 and RSA 664:16. You were warned at that time of the requirements of those statutory provisions.

000119

With respect to the requirements of RSA 664:14, you were notified that while you identified who paid for the political advertisement, you failed to publish the address information required by this statute. You were also warned, at that time, of the RSA 664:16 requirement to include "Political Advertisement" markings on any political ads in your publication.

First, as a reminder, "All political advertising shall be signed at the beginning or the end with the names and addresses of the candidate...responsible for it." RSA 664:14, I. The advertisement in question failed to contain the required responsible name and address information.

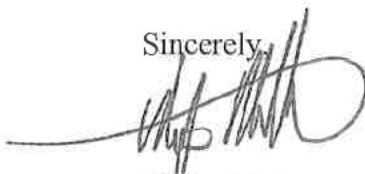
Additionally, RSA 664:16 requires political advertisements printed in newspapers or periodicals to be marked "at the beginning or the end thereof with 'Political Advertising.'" The purpose of this is to distinguish newspaper editorials, endorsements, articles, or letters from paid advertisements.

Ms. Loughlin's ad failed to comply with RSA Chapter 664. It did not have the required "paid for by" and address information pursuant to RSA 664:14, and your publication failed to designate it as "Political Advertising" pursuant to RSA 664:16. As the publisher, you are responsible for complying with RSA 664:16 and ensuring that political advertising is properly labelled in your publication.

Our office will not be taking any further action on this matter. However, given your prior warning regarding the requirements of RSA 664:16, **this is your second and final warning** against publishing political advertising without the mandatory "Political Advertising" designation. In the event that you again violate provisions of RSA Chapter 664, our office may pursue appropriate enforcement action.

This matter is closed. If you have any questions or concerns, please do not hesitate to contact me or Investigator Tracy.

Sincerely,



Myles Matteson
Assistant Attorney General
Election Law Unit
(603) 271-1119
myles.b.matteson@doj.nh.gov

cc: Laura Morin
Sara Loughlin

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOHN M. FORMELLA
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

October 28, 2021

[REDACTED]
Laconia, NH 03246

Re: [REDACTED] Alleged Wrongful Voting (3093260)

Dear [REDACTED]

On November 23, 2020, this Office received an anonymous complaint alleging that you moved to Gilford, New Hampshire, yet voted in Laconia during the November 3, 2020, General Election. After careful consideration, we have concluded that you did not violate New Hampshire's election laws, and properly voted in Laconia during the November 3, 2020, General Election.

In reaching this determination, we reviewed property records, reviewed your New Hampshire election records, and also spoke with you.

On December 23, 2020, you spoke with Investigator Allison Vachon about this matter. You explained that your family owns several properties, and only recently purchased a property in Gilford, on Governor's Island. You explained this property on [REDACTED] would be renovated so your family could offer it up as an "Airbnb."

With respect to the November 3, 2020 General Election, you told Investigator Vachon that you voted in Laconia. You explained that you were not registered to vote in Gilford. Records from ElectionNet confirmed the accuracy of your statements. Furthermore, both your election history and voter registration history show that you have only ever registered and voted in Laconia. Election records do not show that you registered to vote nor voted in Gilford during the November 3, 2020 General Election.

Later on December 23, you notified Investigator Vachon that your house located at [REDACTED] in Laconia, which was the address you indicated was your domicile for voting purposes, had been listed for sale on November 14, 2020. This would have been after the November 3, 2020 General Election.

An inquiry into the property records for this address shows that it was listed for sale by Coldwell Banker Realty on November 14, 2020.

000121

In New Hampshire, in order to vote in a town, ward, or unincorporated place a person must be domiciled there. A “domicile for voting purposes is that one place where a person, more than any other place, has established a physical presence and manifests an intent to maintain a single continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government.” RSA 654:1, I.¹ “A person has the right to change domicile at any time, however, a mere intention to change domicile in the future does not, of itself, terminate an established domicile before the person actually moves.” *Id.*

In this case, we have not found any evidence to suggest that you terminated your domicile at [REDACTED] in Laconia prior to or on the day of the November 3, 2020 General Election. The fact that your home at this address was later listed for sale following the election does not mean that you improperly voted. Therefore, we conclude that during the November 3, 2020 General Election, you were domiciled at [REDACTED] in Laconia, and thus lawfully and properly voted in Laconia.

Please be advised, if you have moved from this address to another place that you now consider your domicile, you can no longer use the [REDACTED] address unless and until you re-establish domicile at that location.

This matter is closed. Please contact me if you have any questions.

Sincerely,



Myles Matteson
Deputy General Counsel
Attorney General's Office
(603) 271-3650

¹ Pursuant to an order issued by the Hillsborough Superior Court in the matter of League of Woman Voters of New Hampshire, et al. v. William M. Gardner, et al., docket number 226-2017-CV-00433, in April of 2020, Laws of 2017, Chapter 205 (also known as “SB3”) was struck down. As a result, the version of RSA Chapter 654 used here is the one in effect in 2016. The version of RSA 654:2 in effect in 2016 did not contemplate the concept of temporary presence, which was added by SB3.

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOHN M. FORMELLA
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

November 8, 2021

[REDACTED]
Rye, NH 03870

Re: [REDACTED] alleged wrongful voting clerical error (3317372)

Dear [REDACTED]

On May 27, 2021, you wrote to New Hampshire Secretary of State William Gardner alleging that a [REDACTED] was illegally registered to vote at your home address of [REDACTED] in Rye. Our Office has investigated this matter and determined that [REDACTED] was listed as a registered voter at your address through a clerical error.

As part of our investigation, Attorney General's Office investigators spoke with the Town of Rye clerk, the Town of Litchfield clerk, received information from the New Hampshire Secretary of State's elections director, reviewed law enforcement databases, and researched voting records.

Investigator Anna Croteau reviewed property and tax cards for your address on [REDACTED]. Investigator Richard Tracy reviewed elections records and noted that there were two registrations for [REDACTED]. In that voter database, there was one entry for [REDACTED] that contained your date of birth and [REDACTED] address. Another entry contained information relating to [REDACTED] of Litchfield.

Donna Decotis, the Rye Town Clerk, and Rye supervisors of the checklist reviewed Town of Rye records and found no indication that a [REDACTED] had ever registered to vote in Rye. The Elections Director at the Secretary of State's Office, Patricia Picuch, discovered that in 2009 both your state election record and [REDACTED]'s election record were updated on the same day. Further review indicates that a former Rye supervisor of the checklist was attempting to update your election record but mistakenly entered [REDACTED]'s name instead of yours. While the supervisor corrected *your* election record, she did not correct [REDACTED]'s, leaving a newly created duplicate record for her, but with your address.

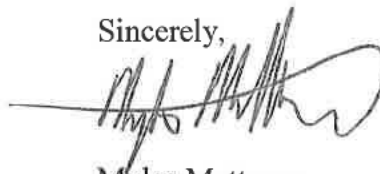
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Under the law, in 2021 voter checklists in New Hampshire were purged of registered voters who had not voted in more than four years. As [REDACTED] had never voted in Rye, her duplicate record associated with your Grove Road address was removed with that purge. [REDACTED] remains a properly registered voter in Litchfield. According to election records, at no point did [REDACTED] use your address for registration or voting purposes.

We appreciate what all election officials do for the voters in their respective communities, the amount of time they put in, and the stress they deal with especially on election days. We recognize that there is the occasional human error. That is what appears to have occurred here—a clerical error in 2009 led to a double-record for [REDACTED] with one record mistakenly associated with your address. That error has since been corrected.

This matter is closed. Please do not hesitate to contact us should you have any question or concerns.

Sincerely,



Myles Matteson
Deputy General Counsel
New Hampshire Attorney General's Office
(603) 271-0445
myles.b.matteson@doj.nh.gov

cc: Donna Decotis, Town Clerk, Town of Rye

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOHN M. FORMELLA
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

November 8, 2021

[REDACTED]
Merrimack, NH 03054

Re: [REDACTED] Alleged Wrongful Voting (3313669)

Dear [REDACTED]

On April 10, 2021, this Office received a potential voter fraud complaint alleging that you were not properly domiciled in Merrimack and voted in the September 2020 New Hampshire state primary and 2020 general election. We have concluded that you did not violate New Hampshire's election laws, and were properly domiciled in Merrimack in 2020.

In reaching this determination, we reviewed motor vehicle records, reviewed your New Hampshire election records, spoke with your daughter, spoke with your landlord, and also spoke with you.

You registered to vote in New Hampshire on January 8, 2008. On January 10, 2012, you updated your voter registration address to [REDACTED] Merrimack. During the 2020 state primary you changed your voter registration address to [REDACTED] Merrimack. You have a valid New Hampshire driver's license, but no automobile registered in the state.

On September 1, 2021, you spoke with Chief Investigator Richard Tracy of the New Hampshire Attorney General's Office. You told Investigator Tracy that you moved to New Hampshire in 2008, and that you are now retired and travel extensively. You indicated that you sold your house in Merrimack in 2019 and then rented a room from [REDACTED] at [REDACTED] Merrimack. You further stated that you rarely use the rented room at [REDACTED] that you often stay with friends when you are in New Hampshire, but that you do receive your mail at your rented room address and also have a helicopter registered with that address.

On September 8, 2021, Investigator Tracy spoke with [REDACTED] your landlord. He indicated that he has rented a room to you, and that while the lease agreement

000125

concluded in January 2020, it has continued in effect as you have maintained your monthly rental payments.

In New Hampshire, in order to vote in a town, ward, or unincorporated place a person must be domiciled there. A “domicile for voting purposes is that one place where a person, more than any other place, has established a physical presence and manifests an intent to maintain a single continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government.” RSA 654:1, I.¹ “A person has the right to change domicile at any time, however, a mere intention to change domicile in the future does not, of itself, terminate an established domicile before the person actually moves.” *Id.*

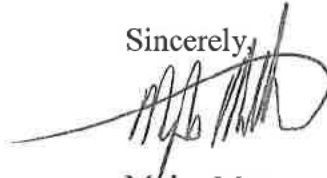
In this case, we have not found any evidence to suggest that you terminated your domicile at [REDACTED] in Merrimack prior to or on the day of the November 3, 2020 general election. Therefore, we conclude that during the September 2020 state primary and November 2020 general election, you were domiciled at [REDACTED] and thus lawfully and properly voted or requested an absentee ballot in Merrimack.

Please be advised, if you have moved from this address to another place that you now consider your domicile, you can no longer use the [REDACTED] address unless and until you re-establish domicile at that location.

Consistent with our duty to enforce the law, this Office takes election allegations seriously. We appreciate your cooperation in this investigation.

This matter is closed. Please contact me if you have any questions.

Sincerely,



Myles Matteson
Deputy General Counsel
New Hampshire Attorney General's Office
(603) 271-1119
myles.b.matteson@doj.nh.gov

cc: Rosemarie Rung
Lynn Christensen, Moderator, Town of Merrimack
Diane Trippett, Town Clerk, Town of Merrimack

¹ Pursuant to an order issued by the Hillsborough Superior Court in the matter of League of Woman Voters of New Hampshire, et al. v. William M. Gardner, et al., docket number 226-2017-CV-00433, in April of 2020, Laws of 2017, Chapter 205 (also known as “SB3”) was struck down. As a result, the version of RSA Chapter 654 used here is the one in effect in 2016. The version of RSA 654:2 in effect in 2016 did not contemplate the concept of temporary presence, which was added by SB3.

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOHN M. FORMELLA
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

November 8, 2021

Timothy Tsantoulis
[REDACTED]
Hooksett, NH 03106

**Re: Warning Letter regarding Political Advertising Identification Requirements
under RSA 664:14 (3317499)**

Dear Mr. Tsantoulis,

On March 9, 2021, this Office received a complaint regarding advertisements in support of your candidacy for town council inserted behind the flags of mailboxes in Hooksett. The complaint alleged that your advertisements failed to contain the identification information required under RSA 664:14. This letter is a warning to comply with RSA 664:14 and your political advertising obligations.

On August 26, 2021, Investigator Anna Croteau spoke with you. She indicated that she was not investigating the issue of posting your advertisements on mailboxes as that is a federal concern. She informed you of the requirement under RSA 664:14 that political advertising must include the name and address of the candidate. While your printed advertisements listed yourself as fiscal agent, the ads did not include your address.

RSA 664:2, VI defines political advertising as any communication, including buttons or printed material attached to motor vehicles, which expressly or implicitly advocates the success or defeat of any party, measure or person at any election. RSA 664:14 requires all political advertising to be signed at the beginning or end with the names and address of the candidate, persons, or entity responsible for it.

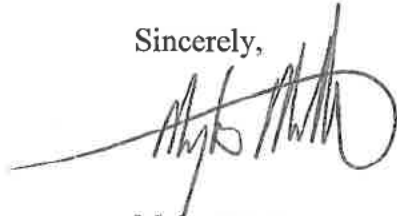
Based on the forgoing, your advertisement constitutes a political advertisement because it expressly advocates for your election. As such, it triggers the identification requirements under RSA 664:14. We understand that you indicated that this was the first time you had made flyers for a campaign and that your son had designed the advertisements. You admitted that you were not aware of the RSA 664:14 requirements and that your political advertisements did not contain the required information.

This Office encourages you to review the above-referenced statutes. This is a warning to comply with the political advertising requirements in RSA 664:14.

000127

This matter is closed. Thank you for your attention to this matter. Please do not hesitate to contact us should you have any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'Myles Matteson', with a large circular flourish at the end.

Myles Matteson
Deputy General Counsel
New Hampshire Attorney General's Office
(603) 271-3650
myles.b.matteson@doj.nh.gov

Copied to: Gianna Valentino

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOHN M. FORMELLA
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

November 9, 2021



Re: [REDACTED] Alleged Wrongful Voting (3282315)

Dear [REDACTED]

On January 22, 2021, this Office received a complaint alleging that you fraudulently voted by absentee ballot in Springfield, New Hampshire. Specifically, the complainant alleged that while you claimed to be living in Springfield, you were, in fact, living in Andover, Massachusetts, working in the Lowell and Lawrence areas, and were only using your Springfield house for weekend and holiday visits.

After careful consideration, we have concluded that this Office will not proceed with an enforcement action based on the facts available. In making this determination, this Office reviewed your New Hampshire motor vehicle records, your Massachusetts motor vehicle records, your New Hampshire voter records, and your Massachusetts voting records. We spoke with Andover, Massachusetts Town Clerk Austin Simko, and spoke with your spouse, [REDACTED]. Should you maintain your Springfield voter registration, we warn you against activities that call your New Hampshire domicile into question.

Andover Town Clerk Simko verified that you are not a registered voter in Andover, Massachusetts. A review of ElectioNet records showed that you registered to vote in Springfield, New Hampshire on or about July 12, 2020. You voted once, by absentee ballot, during the November 3, 2020, general election. As of June 11, 2021, records showed that you still possessed an active Massachusetts driver's license, however, subsequent checks showed that you acquired a New Hampshire license on September 13, 2019. You have also registered a vehicle in New Hampshire.

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On June 11, 2021, Chief Investigator Richard Tracy spoke with your spouse, [REDACTED]. During that conversation she indicated that you live at your Springfield home, are registered to vote in Springfield, and have registered your car in New Hampshire. You also stated that you still own your home in Andover, Massachusetts, and that you work at [REDACTED] in the Lawrence, Massachusetts area.

On July 27, 2021, [REDACTED] again spoke with Investigator Tracy. During that conversation she stated that you consider your Springfield home your domicile for voting purposes. She stated that you both keep your Andover home as a residence for when you work in the Lawrence area, and that you often stay there.

[REDACTED] also stated that you have two school-age children. She stated that your children are in private school, but refused to provide any additional information about which school your children attend and whether they are boarding or returning to your Andover residence each night after school. Investigator Tracy informed her that if your children are attending school in Massachusetts and coming home at night after school to your Andover residence that would indicate that they—and perhaps you—may be domiciled in Massachusetts, not New Hampshire.

In New Hampshire, in order to vote in a town, ward, or unincorporated place a person must be domiciled there. A “domicile for voting purposes is that one place where a person, more than any other place, has established a physical presence and manifests an intent to maintain a single continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government.” RSA 654:1, I.¹ “A person has the right to change domicile at any time, however, a mere intention to change domicile in the future does not, of itself, terminate an established domicile before the person actually moves.” *Id.*

RSA 654:11 creates a presumption that the applicant is qualified to vote and authorizes the supervisors of the checklist to reject the application only if they conclude that it is more likely than not that the applicant is not qualified. See New Hampshire Election Procedure Manual: 2020-2021, Pg. 170.

The supervisors must consider the applicant’s manifestations of intent to maintain a single, continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government. There are many types of documents that satisfy this requirement. Among those documents, election officials have recognized that a New Hampshire driver’s license or non-driver ID showing the applicant’s current domicile address is satisfactory proof of domicile. Similarly, a New Hampshire resident

¹ Pursuant to an order issued by the Hillsborough Superior Court in the matter of League of Woman Voters of New Hampshire, et al. v. William M. Gardner, et al., docket number 226-2017-CV-00433, in April of 2020, Laws of 2017, Chapter 205 (also known as “SB3”) was struck down. As a result, the version of RSA Chapter 654 used here is the one in effect in 2016. The version of RSA 654:2 in effect in 2016 did not contemplate the concept of temporary presence, which was added by SB3.

motor vehicle registration showing the applicant's domicile address is also satisfactory proof of domicile.²

However, the question of domicile is a continuing analysis that is not isolated to the proof provided at the time a voter registers to vote. When this Office is contacted with complaints or reports involving the domicile of a voter, it must review the totality of the circumstances to determine if a voter was in fact domiciled for voting purposes in the town or city in which he/she registered and voted.

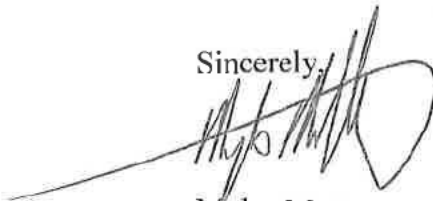
In this case, in addition to establishing a physical presence in Springfield, you obtained a New Hampshire driver's license and registered your vehicle in this State. However, this Office is concerned by your continued frequent and strong connections to your Andover residence and Massachusetts employment, combined with your spouse's unwillingness to provide further information about your children's school arrangements—information that could undermine your New Hampshire domicile status. These facts raise questions as to whether your Springfield residence constituted your domicile under the law. However, based on this limited information, this Office is accepting your claim of domicile for the purposes of the November 3, 2020, general election.

Under RSA 659:34 Wrongful Voting; Penalties for Voter Fraud, an individual who votes for any office or measure at an election if that person is not qualified to vote is guilty of a class B felony. Additionally, that person may be subject to a civil penalty of up to \$5,000. False claims of domicile could constitute a violation of RSA 659:34 and result in further enforcement action by this Office.

Based upon the investigation conducted by our Office, and relying on the facts described above, you are hereby informed of the law and factors concerning domicile claims and the requirements to be a qualified voter in New Hampshire.

This matter is closed. Please contact me if you have any questions.

Sincerely,



Myles Matteson
Assistant Attorney General
Election Law Unit
(603) 271-3650
myles.b.matteson@doj.nh.gov

² "A document showing that the applicant owns the place the applicant is domiciled at, such as a deed, property tax bill, or other similar document that has the applicant's name and address" would also constitute satisfactory proof of domicile. See New Hampshire Election Procedure Manual: 2020-2021, Pgs. 173-74.

cc:

Austin Simko, Town Clerk & Chief Strategy Officer, Town of Andover,
Massachusetts

Richard Hendl, Springfield Board of Selectmen

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

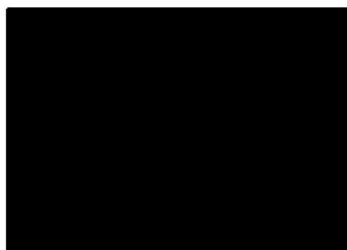
33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOHN M. FORMELLA
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

November 9, 2021



Re: [REDACTED] Alleged Wrongful Voting (3278625)

Dear [REDACTED]

On January 22, 2021, this Office received a complaint alleging that you fraudulently voted by absentee ballot in Springfield, New Hampshire. Specifically, the complainant alleged that while you claimed to be living in Springfield, you were, in fact, living in Andover, Massachusetts, working in the Lowell and Lawrence areas, and were only using your Springfield house for weekend and holiday visits.

After careful consideration, we have concluded that this Office will not proceed with an enforcement action based on the facts available. In making this determination, this Office reviewed your New Hampshire motor vehicle records, your Massachusetts motor vehicle records, your New Hampshire voter records, and your Massachusetts voting records. We spoke with Andover, Massachusetts Town Clerk Austin Simko, and spoke with you. Should you maintain your Springfield voter registration, we warn you against activities that call your New Hampshire domicile into question.

Andover Town Clerk Simko verified that you are still a registered voter in Andover, Massachusetts, and that you last voted there in the November 6, 2018, election. A review of ElectionNet records showed that you registered to vote in Springfield, New Hampshire on or about July 3, 2020. You voted once, by absentee ballot, during the November 3, 2020, general election. As of June 11, 2021, records showed that you still possessed an active Massachusetts driver's license, however, subsequent checks showed that you acquired a New Hampshire license on September 17, 2019. You have also registered a vehicle in New Hampshire.

On June 11, 2021, Chief Investigator Richard Tracy spoke with you. During that conversation you indicated that you live at your Springfield home, are registered to vote in

000133

Springfield, and have registered your car in New Hampshire. You also stated that you still own your home in Andover, Massachusetts, and that you work at [REDACTED]

On July 27, 2021, you again spoke with Investigator Tracy. During that conversation you stated that you consider your Springfield home your domicile for voting purposes. You indicated that you recently started working at [REDACTED] in Nashua and may also begin working at [REDACTED] in Manchester. You stated that you and your husband keep your Andover home as a residence for when you work in the Lawrence area, and that you often stay there.

You also stated that you have two school-age children. You stated that your children are in private school, but refused to provide any additional information about which school your children attend and whether they are boarding or returning to your Andover residence each night after school. Investigator Tracy informed you that if your children are attending school in Massachusetts and coming home at night after school to your Andover residence that would indicate that they—and perhaps you—may be domiciled in Massachusetts, not New Hampshire.

In New Hampshire, in order to vote in a town, ward, or unincorporated place a person must be domiciled there. A “domicile for voting purposes is that one place where a person, more than any other place, has established a physical presence and manifests an intent to maintain a single continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government.” RSA 654:1, I.¹ “A person has the right to change domicile at any time, however, a mere intention to change domicile in the future does not, of itself, terminate an established domicile before the person actually moves.” *Id.*

RSA 654:11 creates a presumption that the applicant is qualified to vote and authorizes the supervisors of the checklist to reject the application only if they conclude that it is more likely than not that the applicant is not qualified. See New Hampshire Election Procedure Manual: 2020-2021, Pg. 170.

The supervisors must consider the applicant’s manifestations of intent to maintain a single, continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government. There are many types of documents that satisfy this requirement. Among those documents, election officials have recognized that a New Hampshire driver’s license or non-driver ID showing the applicant’s current domicile address is satisfactory proof of domicile. Similarly, a New Hampshire resident motor vehicle registration showing the applicant’s domicile address is also satisfactory proof of domicile.²

¹ Pursuant to an order issued by the Hillsborough Superior Court in the matter of League of Woman Voters of New Hampshire, et al. v. William M. Gardner, et al., docket number 226-2017-CV-00433, in April of 2020, Laws of 2017, Chapter 205 (also known as “SB3”) was struck down. As a result, the version of RSA Chapter 654 used here is the one in effect in 2016. The version of RSA 654:2 in effect in 2016 did not contemplate the concept of temporary presence, which was added by SB3.

² “A document showing that the applicant owns the place the applicant is domiciled at, such as a deed, property tax bill, or other similar document that has the applicant’s name and address” would also constitute satisfactory proof of domicile. See New Hampshire Election Procedure Manual: 2020-2021, Pgs. 173-74.

However, the question of domicile is a continuing analysis that is not isolated to the proof provided at the time a voter registers to vote. When this Office is contacted with complaints or reports involving the domicile of a voter, it must review the totality of the circumstances to determine if a voter was in fact domiciled for voting purposes in the town or city in which he/she registered and voted.

In this case, in addition to establishing a physical presence in Springfield, you obtained a New Hampshire driver's license and registered your vehicle in this State. However, this Office is concerned by your continued frequent and strong connections to your Andover residence and Massachusetts employment, combined with your unwillingness to provide further information about your children's school arrangements—information that could undermine your New Hampshire domicile status. These facts raise questions as to whether your Springfield residence constituted your domicile under the law. However, based on this limited information, this Office is accepting your claim of domicile for the purposes of the November 3, 2020, general election.

Under RSA 659:34 Wrongful Voting; Penalties for Voter Fraud, an individual who votes for any office or measure at an election if that person is not qualified to vote is guilty of a class B felony. Additionally, that person may be subject to a civil penalty of up to \$5,000. False claims of domicile could constitute a violation of RSA 659:34 and result in further enforcement action by this Office.

Based upon the investigation conducted by our Office, and relying on the facts described above, you are hereby informed of the law and factors concerning domicile claims and the requirements to be a qualified voter in New Hampshire.

This matter is closed. Please contact me if you have any questions.

Sincerely,



Myles Matteson
Assistant Attorney General
Election Law Unit
(603) 271-3650
myles.b.matteson@doj.nh.gov

cc:

Austin Simko, Town Clerk & Chief Strategy Officer, Town of Andover, Massachusetts
Richard Hendl, Springfield Board of Selectmen

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**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOHN M. FORMELLA
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

December 6, 2021

Ruth Mooney, Selectwoman
Town of Belmont
PO Box 310
143 Main Street
Belmont, NH 03220-0310

Re: Ruth Mooney, Alleged Illegal Campaign Activity

Dear Selectwoman Mooney:

On May 15, 2020, this Office received a complaint from Charles Gravenhorst, alleging that you violated RSA 659:44 by electioneering during the March 10, 2020, town election. Specifically, he alleged that you were handing out what he described as "promotional cards" outside of the Belmont polling place. After careful review, we conclude that no violation of election law has occurred.

Although not a violation of election law, during the March 9, 2021, town election, Chief Investigator Richard Tracy reported that you repeatedly stepped into the no-electioneering corridor in order to hand out electioneering materials. Consequently, we have outlined the applicable statutes for your information and encourage you to review them to ensure you respect this no-electioneering corridor in the future.

I. FACTUAL BACKGROUND

On May 15, 2020, Mr. Gravenhorst sent Investigator Tracy a complaint alleging that you violated RSA 659:44 – prohibiting electioneering by election officers – by handing out what he described as "promotional cards" to voters during the March 10 town election.¹ These cards supported the passage of Article #2 and the re-election of Selectman Claude "Sonny" Patten, Jr. During the March 10 town election, you were an election official/officer pursuant to RSA 652:13 because you were a select board member.

¹ In support of his allegations, Mr. Gravenhorst represented that Selectboard candidate George Condodemetraky and his wife Susan Condodemetraky witnessed this conduct. Both were contacted by Investigator Tracy on June 18, 2020. Neither confirmed what Mr. Gravenhorst had represented in his complaint.

On June 4, 2020, Mr. Gravenhorst emailed Investigator Tracy with additional information he obtained from Belmont Town Moderator Alvin Nix. According to Mr. Gravenhorst, Moderator Nix informed him that you were allowed to engage in electioneering outside the polling place during the March 10, 2020, town election, and that he has permitted this practice for years. Mr. Gravenhorst argued against Moderator Nix, asserting this was a violation of RSA 659:44 because at no point was an "election officer pro tem" appointed to serve in your place while you electioneered. Mr. Gravenhorst represented that after making this argument, Moderator Nix continued to assert your electioneering in the electioneering area was legal.

On March 9, 2021, the day of the town election, Investigator Tracy went to the polling place located at Belmont High School.

Investigator Tracy observed you pace back and forth in front of the entrance to the polling place. He saw you step towards some, but not all, voters with your arm outstretched with a piece of paper in your hand. Some of these voters chose to engage you in conversation, while others simply took the piece of paper and walked inside. During his observation, he did not see you block the entrance or step in front of any voters to hand them the paper you were distributing.

Investigator Tracy walked inside the polling place. As he approached the entrance, you stepped towards him with your arm outstretched, holding a small piece of paper in your hand. At the same time you stated "please vote for Mooney" or words to this effect.

The paper you gave Investigator Tracy read: "SELECTMAN RE-ELECT Ruth MOONEY PLANNING BOARD; RE-ELECT Gary Grant; WRITE IN, Rick Segalini."

After Investigator Tracy examined the inside of the polling place, he exited and spoke with you. He explained to you that you should not pace back and forth in front of the entrance and that the law requires that there be at least a ten foot corridor for voters to freely enter the polling place. You explained that it was too cold to stand still. Investigator Tracy replied that you could move along the side or away from the entrance, but could not intrude into the path of the polling place's entrance. Investigator Tracy also informed you that while it was permissible for voters to approach you for campaign materials or for a discussion, you should not step towards the voters as they are entering into the polling place. You told Investigator Tracy that you understood.

II. APPLICABLE LAW

RSA 659:44 states that "[n]o election officer shall electioneer while in the performance of his official duties."

RSA 659:43, II states that –

"The moderator shall establish one or more no-electioneering corridors, no less than 10 feet wide, that extend from all entrances of the polling place a reasonable distance along the sidewalks or to

the parking lots that serve the polling place. The moderator shall establish the corridor in a manner that permits a voter arriving or leaving the polling place to enter or exit without interruption or interference from individuals outside the corridor, and that permits a voter to step to the edge of the corridor and speak with those electioneering if he or she chooses.”

RSA 659:43, III outlines the moderator’s responsibility to “designate a preferred area for electioneering, which to the extent practical shall be within sight and conversation-level sound of the primary entrance to the polling place.”

III. ANALYSIS

This Office has previously advised election officials that incumbent officials may electioneer in the designated electioneering area outside the polling place, provided they are not acting in their capacity as an election officer. The New Hampshire Election Procedure Manual: 2020-2021 contains the following guidance: “Election officials who want to electioneer are strongly encouraged to temporarily step down for the entire election and allow a temporary replacement to perform their election duties.” Pg. 89.

RSA 659:44 does not explicitly prohibit an election official from electioneering outside of his or her official duties.

The function of this statute is to prevent improper influence of an incumbent election official over a voter. The statute does not require that the incumbent election official appoint a replacement before electioneering. Instead, it prohibits electioneering by election officers while in the performance of their official duties, meaning that a Supervisor of the Checklist should not be electioneering while registering new voters; the moderator should not be electioneering while putting ballots into the ballot box, and the town clerk should not be electioneering while organizing voter lines inside the polling place. The common thread through these examples is prohibiting electioneering where the incumbent official is interacting with voters in his/her official capacity. To construe RSA 659:44 to require execution of appointing a pro tem representative would not capture the spirit of the law.

Additionally, while RSA 664:17 states, “[n]o political advertising shall be placed on or affixed to any public property,” this applies to unattended signs that are not being utilized in an electioneering zones at a polling place. The law does not prohibit the use of political advertising materials in the electioneering zone provided the individual using the sign is in its proximity.

IV. CONCLUSION

There is no evidence presented to us that you engaged in electioneering while interacting with voters in your official capacity. Based on the forgoing, we conclude that you did not violate RSA 659:44. Mr. Gravenhorst alleged that you were distributing promotional cards outside of the polling place, within the electioneering area designated by the moderator. While the formality of swearing-in a pro tem appointee does not appear to have been completed, it does not

Ruth Mooney
Page 4 of 4

appear you were otherwise electioneering while in the performance of your official duties. Instead, you were handing out these promotional pamphlets as a candidate. When you were not acting as a candidate, we have not obtained any evidence to establish you engaged in electioneering while performing your duties as an election official/Selectwoman.

However, in the future, and as stated in the Election Procedure Manual, we strongly encourage you to step down and appoint a pro tem replacement, if you choose to electioneer on Election Day.

It is also important that you comply with RSA 659:43's establishment of a ten-foot, no-electioneering corridor. Pacing inside of this corridor while electioneering or otherwise encroaching upon voters entering the polling place to distribute electioneering materials is prohibited. The law ensures that designated electioneering areas are within "sight and conversation-level sound of the primary entrance." RSA 659:43, III. As such, candidates are permitted to call out to and invite over voters to receive electioneering materials or to hold a discussion. However, it is the voter's choice whether to engage with candidates, and their entry into the polling place cannot otherwise be interrupted or interfered with.

This matter is closed. Please feel free to contact me if you have any questions.

Sincerely,



Myles Matteson
Deputy General Counsel
Attorney General's Office
myles.b.matteson@doj.nh.gov

cc: Alvin Nix, Belmont Moderator
Charles Gravenhorst

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**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOHN M. FORMELLA
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

December 10, 2021

Matthew Normand
City Clerk
Office of the City Clerk
One City Hall Plaza
Manchester, NH 03101

Re: [REDACTED] Alleged Wrongful Voting

Dear Clerk Normand:

On February 4, 2021, you sent us information regarding a voter, [REDACTED] who newly registered on the election day of November 3, 2020. You noted that while it appeared from election documentation that [REDACTED] may have voted both in Manchester Ward 12 and in Nashua, you also stated that you believed that inadvertent election official error was a likely cause of the double voting. After investigating this matter, we conclude that no election violations occurred, and that the concern was caused by clerical error.

Our investigation into this allegation led to the discovery that [REDACTED] of [REDACTED] Nashua, had properly voted in Nashua but that the ballot clerk had mistakenly checked-off [REDACTED] as having voted. As such, we determined that [REDACTED] did not double vote during the November 3, 2020, general election.

As part of our investigation, Investigator Richard Tracy reached out to [REDACTED] on a number of occasions. He also visited his residence in Manchester, which appeared to still be valid as the doormat at the front door stated, "Welcome, [REDACTED]." Investigator Tracy left a card with contact information. To date, [REDACTED] has failed to respond in any manner.

Investigator Tracy spoke with [REDACTED] at his home in Nashua. [REDACTED] stated that he did vote in Nashua Ward 6 in the November 3, 2020, general election, but did not recall what name the ballot clerk checked off on the checklist. The Nashua Ward 6 checklist does not show [REDACTED]'s name crossed off, and instead shows [REDACTED]'s name crossed off, also with the [REDACTED] address.

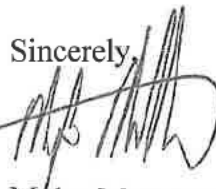
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It appears that the Nashua ballot clerk mistakenly checked off [REDACTED] on the day of the November 3, 2020, election when the clerk should have checked off [REDACTED] instead.

We appreciate what all election officials do for the voters in their respective communities, the amount of time they put in, and the stress they deal with especially on election day. We realize that clerical errors occasionally happen.

This matter is closed. Please do not hesitate to contact us should you have any question or concerns. Thank you for all that you and your team of election officials do for the citizens of Manchester.

Sincerely,



Myles Matteson
Assistant Attorney General
Election Law Unit
(603) 271-0445
myles.b.matteson@doj.nh.gov

cc:

[REDACTED]
Vicki Henry, Moderator, Nashua Ward 6

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOHN M. FORMELLA
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

December 10, 2021

Matthew Normand
City Clerk
Office of the City Clerk
One City Hall Plaza
Manchester, NH 03101

Re: [REDACTED], Alleged Wrongful Voting

Dear Clerk Normand:

On February 4, 2021, you sent us information regarding a voter, [REDACTED] who is recorded as having voted on election day of November 3, 2020. You noted that while it appeared from election documentation that [REDACTED] may have voted both in Manchester Ward 11 and in Hooksett, you also stated that you believed that inadvertent election official error was a likely cause of the double voting. After investigating this matter, we conclude that no election violations occurred, and that the concern was caused by clerical error.

Our investigation into this allegation led to the discovery that [REDACTED] now a resident of Hooksett, had formerly resided at [REDACTED] in Manchester and in 2016 had registered to vote in Ward 11. It appears that she properly voted in Hooksett on November 3, 2020, and that the Manchester Ward 11 ballot clerk had mistakenly checked-off her name, still on the Ward 11 checklist, as having voted. As such, we determined that [REDACTED] did not double vote during the November 3, 2020, general election.

As part of our investigation, Investigator Richard Tracy reached out to election officials and voters, as well as gathered documentation. He determined that on October 31, 2016, [REDACTED] registered to vote in Manchester. She provided a New Hampshire driver's license with an address of [REDACTED] Manchester, a Ward 11 address. On November 3, 2020, [REDACTED] same-day registered and voted in Hooksett, with the address of her new residence, [REDACTED]. [REDACTED] provided the same driver's license number and listed her previous address as [REDACTED] Manchester.

However, the Manchester Ward 11 checklist indicates that [REDACTED] with a date of birth of [REDACTED] checked in and voted, and the entry showed an updated address of [REDACTED]. [REDACTED] Through referencing a law enforcement database, Investigator Tracy determined that a

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[REDACTED] with a date of birth of [REDACTED] was associated with that address on [REDACTED]
[REDACTED]'s last known address was on [REDACTED] a Ward 7 address.

Investigator Tracy spoke with [REDACTED] on November 23, 2021. She stated that she used to live at [REDACTED] but moved to [REDACTED]. She stated that she did vote in Ward 11—the proper ward for her [REDACTED] address—in the November 3, 2020, general election. She told the ballot clerk that she had recently moved, gave the clerk her new address, and recalled the clerk writing down her new address on the checklist. [REDACTED] had not updated her voter registration, and her name was not on the Ward 11 checklist as of November 3, 2020. However, [REDACTED]'s name was on the checklist, and was crossed off as having voted, with the address correction of [REDACTED] noted. Investigator Tracy informed [REDACTED] that, as she had changed wards, she should have updated her voter registration by changing her address with the onsite registrar.

Investigator Tracy also spoke with [REDACTED] on November 23, 2021, the voter whose name appeared directly below [REDACTED]'s on the Ward 11 checklist. While [REDACTED]'s name is not crossed off on the checklist, there is a handwritten “Jr.” after his name and then a handwritten address update notation. [REDACTED] stated that he did indeed vote on November 3, 2020, in Ward 11.

It appears that a Ward 11 ballot clerk made three mistakes. First, a clerk updated his address but then failed to cross off [REDACTED]'s name even though he voted. Second, the ballot clerk gave a ballot to a voter, [REDACTED] that was not properly registered to vote in Ward 11. Third, the clerk recorded the vote of [REDACTED] under [REDACTED]'s name on the checklist, likely failing to notice the differences in first name and slightly difference in birth year.

We appreciate what all election officials do for the voters in their respective communities, the amount of time they put in, and the stress they deal with, especially on election day. We ask that you share the information from this investigation with the Ward 11 moderator and to use it as an opportunity for the moderator to ask the ballot clerks to be more careful.

This matter is closed. Please do not hesitate to contact us should you have any question or concerns. Thank you for all that you and your team of election officials do for the citizens of Manchester.

Sincerely,



Myles Matteson
Assistant Attorney General
Election Law Unit
(603) 271-0445
myles.b.matteson@doj.nh.gov

cc: [REDACTED]

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOHN M. FORMELLA
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

January 28, 2022

James Peck,
[REDACTED]
Plaistow, NH 03865

Charles Fowler,
[REDACTED]
Plaistow, NH 03865

RE: Alleged Illegal Campaign Activity in violation of RSAs 664:14

Messrs. Peck and Fowler:

On March 5, 2021, this Office received a complaint regarding political advertisements posted in Plaistow reading, "VOTE YES ARTICLE #19, HERITGE COMMISSION." On March 9, 2021, this Office received an additional complaint regarding political advertisements posted in Plaistow reading, "VOTE NO #19." Both complaints alleged that the advertisements failed to contain identification information required under RSA 664:14.

As part of this Office's investigation, we spoke with both of you, Plaistow Town Clerk Martha Fowler, and Plaistow Moderator Robert Harb. Both complaints included photos of the political advertisements mentioned above. Neither advertisement included information identifying the individual or entity responsible for producing the signs. These advertisements concern the creation of a heritage commission and the related ballot measure.

On March 9, 2021, Chief Investigator Richard Tracy spoke with Mr. Peck. Mr. Peck stated that he is associated with the Plaistow Historical Society, acknowledged producing the "VOTE YES" signs, claims he paid for the signs and distributed them alone, and indicated that the Plaistow Historical Society is not responsible for the signs nor did he receive any assistance from anyone else. Investigator Tracy discussed the information requirements in RSA 664:14 with Mr. Peck, noting that an *individual* is not required to put identifying information on a political advertisement under some conditions. Mr. Peck provided a receipt to Investigator Tracy showing that he purchased 100 signs on February 3, 2021.

Also on March 9, 2021, Investigator Tracy spoke with Charles Fowler, the spouse of town clerk Martha Fowler. Mr. Fowler acknowledged that he alone was responsible for the "VOTE NO #19" signs. He paid for five signs and placed them at the Plaistow polls, then became upset when he saw that they had been laid on the ground. Investigator Tracy noted that signs cannot be on the grounds of the polls unattended and that they need to be manned by somebody in the electioneering zone.

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James Peck and Charles Fowler

Page 2 of 2

We accept your claims as to each producing your respective signs individually. At the same time, we would like to take this opportunity to review the applicable statute governing the identification requirements for political advertisements, specifically RSA 664:14.

First, RSA 664:2, VI defines political advertising as any communication, including buttons or printed material attached to motor vehicles, which expressly or ~~implicitly~~ advocates the success or defeat of any party, measure or person at any election. With respect to implicit advocacy, as referenced in RSA 664:2 and implemented through RSA 664:14, the United States District Court for New Hampshire held that the term “implicitly” was unconstitutional. *Stenson v. McLaughlin*, No. CIV. 00-514-JD, 2001 WL 1033614, at *7 (D.N.H. Aug. 24, 2001). As a result, the Court struck the term “implicitly” from RSA 664:2, VI and prohibited its use when enforcing RSA 664:14.

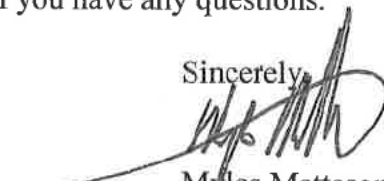
RSA 664:14 requires all political advertising to be signed at the beginning or end with the name and address of the candidate, persons, or entity responsible for the advertising. Based on the forgoing, the signs in question would constitute political advertisements as they, respectively, expressly advocate for the success and failure of a measure, in this case, concerning ballot measure #19. As such, the signs trigger the identification requirements under RSA 664:14.

However, in 1995, the United States Supreme Court found that a “written election-related document...is often a personally crafted statement of a political viewpoint” and as such, “identification of the author against her will is particularly intrusive.” *McIntyre v. Ohio*, 514 U.S. 334, 355, 357 (U.S. 1995). The Court held that the First Amendment protects the anonymity of political speech when conducted by an individual. *Id.* at 357. Consistent with *McIntyre*, and based on your statements, we conclude that the disclosure requirements in RSA 664:14 are not enforceable against a non-candidate-related individual responsible for designing, creating, and distributing signs in the manner you described.

In the twenty-six years since *McIntyre*, many courts—including one within our federal circuit—have narrowed the case’s application and upheld advertising disclosure requirements, even against individuals. See *Bailey v. State*, 900 F. Supp. 2d 75, 85-87 (D. Me 2011); *Citizens United v. FEC*, 558 U.S. 310, 366-71 (2009). You should be advised that the use of a wide-spread direct mailer, use of different media, or coordination with candidate campaigns or other non-campaign individuals are all factors, among others, that could bar you from claiming the *McIntyre* exception in the future. The simplest way to avoid a future violation is to insert an identifying name and address or email address on any such cards per RSA 664:14, I.

We will take no further action on this complaint at this time in light of *McIntyre*. This matter is closed. Please feel free to contact me if you have any questions.

Sincerely,



Myles Matteson
Deputy General Counsel
New Hampshire Attorney General’s Office
Myles.b.matteson@doj.nh.gov

Copied to: Ty Vitale

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOHN M. FORMELLA
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

February 11, 2022

Jonathan Szarek
[REDACTED]
Pelham, NH 03076

Re: Friends of Pelham, Alleged Campaign Finance Violation

Dear Mr. Szarek:

On March 4, 2021, this Office received a complaint, alleging violations of RSA 664:14, RSA 664:2, and 664:21, specifically, that a mailer sent to Pelham residents, directing the reader to "VOTE NO ON ARTICLE 2," failed to include the identification information required for political advertising under RSA 664:14. The advertisement in question was mailed out prior to the March 9, 2021, town election.

In the return address block of the advertisement is the following: "FRIENDS OF PELHAM, Informational Group, Pelham, NH 03076." There is also a postal permit identified as "Permit No. 1." The advertisement also contains a message to "PLEASE VOTE NO ON ARTICLE 2," and claims that voting "Yes" on this article will "show as big increases on your tax bill." The back of the advertisement displays four boxes containing a rationale for voting "No" on Article 2, before ending with the message, "PLEASE GO TO THE POLLS ON 3/9 AND VOTE NO ON ARTICLE 2."¹

On April 19, 2021, this Office received from Attorney Jamie Hage, your signed, notarized affidavit dated April 6, 2021. In the affidavit, you attest that you were the only person responsible for the creation and construction of the political advertisement. You also stated that you alone paid the \$1,550.00 to produce and mail the advertisement. You hired Mailways, Inc., a bulk mailing company, to send the advertisement to Pelham residents. You represented that approximately 5,250 advertisements were sent out to Pelham residents.

¹ The complainant also alleged that the advertisement contained "material misrepresentations that are verifiably false," specifically, the unclear subject of the term "administration" contained within the advertisement. This Office does not have enforcement authority over the accuracy of speech contained in political advertising. Furthermore, there is no evidence to suggest voter suppression contrary to RSA 659:40. Therefore, this determination will not delve into an analysis of the advertisement's alleged misrepresentations.

RSA 664:2, VI defines political advertising as any communication, including buttons or printed material attached to motor vehicles, which expressly ~~or implicitly~~ advocates the success or defeat of any party, measure, or person at any election.

With respect to implicit advocacy, as referenced in RSA 664:2 and implemented through RSA 664:14, the United States District Court for New Hampshire held that the term “implicitly” was unconstitutional. *Stenson v. McLaughlin*, No. CIV. 00-514-JD, 2001 WL 1033614, at *7 (D.N.H. Aug. 24, 2001). As a result, the Court struck the term “implicitly” from RSA 664:2, VI and prohibited its use when enforcing RSA 664:14.

RSA 664:14 requires all political advertising to be signed at the beginning or end with the names and addresses of the candidates, persons, or entity responsible for it.


In this case, this mailer with its content constitutes explicit advocacy within the meaning of RSA 664:2, VI, because it is directing the reader to vote “No” on a specific warrant article involving the renovation of the Pelham Memorial School. Consequently, this would trigger the identification requirements for political advertising under RSA 664:14.

However, in 1995, the United States Supreme Court found that a “written election-related document...is often a personally crafted statement of a political viewpoint” and as such, “identification of the author against her will is particularly intrusive.” *McIntyre v. Ohio*, 514 U.S. 334, 355, 357 (U.S. 1995). The Court held that the First Amendment protects the anonymity of political speech when conducted by an individual. *Id.* at 357. Consistent with *McIntyre*, and based on your sworn affidavit, we conclude that the disclosure requirements in RSA 664:14 are not enforceable against a non-candidate-related individual responsible for designing, creating, and distributing cards in the manner you described.

In the twenty-six years since *McIntyre*, many courts—including one within our federal circuit—have narrowed the case’s application and upheld advertising disclosure requirements, even against individuals. See *Bailey v. State*, 900 F. Supp. 2d 75, 85-87 (D. Me 2011); *Citizens United v. FEC*, 558 U.S. 310, 366-71 (2009). You should be advised that the use of a wide-spread direct mailer, use of different media, and coordination with candidate campaigns or other non-campaign individuals are all factors, among others, that could bar you from claiming the *McIntyre* exception in the future. The simplest way to avoid a future violation is to insert an identifying name and address or email address on any such cards per RSA 664:14, I.

We will take no further action on this complaint at this time in light of *McIntyre* and your sworn affidavit. This matter is closed. Please feel free to contact me if you have any questions.

Sincerely,



Myles Matteson
Deputy General Counsel
Attorney General’s Office

cc: Amy Spencer, Esquire
Jamic N. Hage, Esquire

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOHN M. FORMELLA
ATTORNEY GENERAL



JAMES T. BOFFETTI
DEPUTY ATTORNEY GENERAL

May 24, 2022

David Testa

[REDACTED]
Tamworth, NH 03886

Re: **CEASE AND DESIST ORDER**
Violation of RSA 659:43

Mr. Testa:

On November 12, 2020, the New Hampshire Secretary of State received a report alleging unlawful electioneering by an individual wearing clothing bearing campaign slogans inside the Tamworth polling place during the November 2020 general election. The Secretary of State referred this matter to the New Hampshire Attorney General's Office. Following our investigation, we have determined that you wore electioneering clothing inside a polling place. You are ordered to cease and desist from engaging in further electioneering inside a polling place in future elections.

The Tamworth town moderator, Chris Canfield, alleged that, during the 2020 General Election, you refused to remove a hat supporting President Trump, who was a candidate on the ballot, while inside the polling place. Mr. Canfield further indicated that you refused to honor three requests—one from a greeter and selectboard member, one from the Chief of Police, and one from Mr. Canfield—to remove your hat which had an electioneering slogan on it. You were informed that electioneering was only allowed in a designated area outside, but that it was not permitted under the law to wear electioneering material into the polling place. When you refused to remove your hat, Mr. Canfield informed you that he would be notifying the Secretary of State or Attorney General of your conduct. Subsequently, in the polling place you removed your jacket to reveal more electioneering slogans on your shirt. You were not prohibited from entering the polling place or prevented from voting during this election.

On August 9, 2021, Investigator Anna Brewer-Croteau attempted to speak with you. She left a message for you asking that you return her call. You did not. Investigator Brewer-Croteau called you again and left messages on your phone on August 12 and August 16. You failed to answer or respond to any of her requests.

RSA 659:43 states, in relevant part, that "[e]lectioneering shall be prohibited within the polling place building." "Electioneering" means "visibly displaying or audibly disseminating

information that a reasonable person would believe explicitly advocates for or against any candidate, political party, or measure being voted.” RSA 652:16-h. This includes, but is not limited to, wearing clothing that displays a candidate’s name or an identifiable slogan. RSA 652:16-h, I.

The law further contemplates penalties for violations, which include –

- Whoever violates any of the provisions of this section shall be guilty of a violation.
- Whoever violates any of the provisions of this section shall be subject to a civil penalty not to exceed \$1,000.

RSA 659:43, VIII and IX.

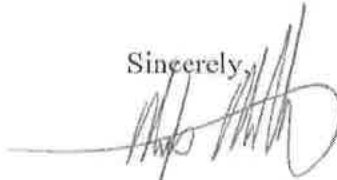
In this case, you wore a hat and shirt supporting a candidate on the November 2020 General Election ballot. As such, your clothing constitutes “electioneering” within the meaning of RSA 652:16-h, and was prohibited from being displayed or worn inside the polling place.

The purpose of RSA 659:43 is to ensure that inside the polling place—and the casting of ballots to select our elected officials—is free from the pressure of explicit advocacy *for any* candidate or ballot measure. Voters must be able to cast their ballots free from such advocacy, whether it is by poll officials or other voters.

Pursuant to RSA 659:43, and based upon the investigation conducted by our Office, you are hereby ordered to **Cease and Desist from engaging in further electioneering inside the polling place in future elections**. Failure to do so could constitute a violation of RSA 659:43 and result in further enforcement action by this Office.

This matter is closed.

Sincerely,



Myles Matteson
Deputy General Counsel
New Hampshire Attorney General’s Office
(603) 271-3650
myles.b.matteson@doj.nh.gov

cc: Chris Canfield, Moderator
Dana Littlefield, Town of Tamworth Police Chief

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOHN M. FORMELLA
ATTORNEY GENERAL



JAMES T. BOFFETTI
DEPUTY ATTORNEY GENERAL

May 24, 2022

Dennis Wagner

Littleton, NH 03561

Re: **CEASE AND DESIST ORDER REGARDING ELECTIONEERING**
Violation of RSA 659:43

Dear Mr. Wagner:

On November 3, 2020, our Office received a report alleging unlawful electioneering by an individual wearing clothing bearing campaign slogans inside the Littleton polling place during the November 2020 general election. Following our investigation, we have determined that you wore electioneering clothing inside a polling place. You are ordered to cease and desist from engaging in further electioneering inside a polling place in future elections.

The Littleton Chief of Police, Paul Smith, alleged that during the 2020 General Election, you refused to remove a hat supporting President Trump, who was a candidate on the ballot, while inside the polling place. Chief Smith further indicated that you refused to honor multiple requests—one from Deputy Chief Christopher Tyler, and again from Chief Smith—to remove your hat that had a campaign message on it. You were informed that under the law individuals were prohibited from wearing electioneering material into the polling place. While you did cover the “Trump” name on the back of your hat with tape, you refused to cover the “Keep America Great” slogan on the front. When you refused to remove or cover your hat, Chief Smith informed you that he would be notifying the Attorney General of your conduct. You were not prohibited from entering the polling place or prevented from voting during this election.

On August 25, 2021, Investigator Anna Brewer-Croteau attempted to speak with you. You did not answer your phone. Investigator Brewer-Croteau confirmed your number with the Littleton Police Department, which matches your number and address found in State records. She called you again multiple times over the following months. You failed to answer or respond to any of her messages asking you to return her call.

RSA 659:43 states in relevant part that “[e]lectioneering shall be prohibited within the polling place building.” “Electioneering” means “visibly displaying or audibly disseminating information that a reasonable person would believe explicitly advocates for or against any candidate, political party, or measure being voted.” RSA 652:16-h. This includes, but is not

limited to, wearing clothing that displays a candidate's name or an identifiable slogan. RSA 652:16-h, I.

The law further contemplates penalties for violations, which include:

- Whoever violates any of the provisions of this section shall be guilty of a violation.
- Whoever violates any of the provisions of this section shall be subject to a civil penalty not to exceed \$1,000.

RSA 659:43, VIII & IX.

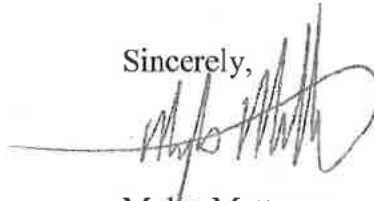
In this case, you wore a hat with a readily identifiable slogan supporting a candidate on the November 2020 General Election ballot. As such, your clothing constituted "electioneering" within the meaning of RSA 652:16-h, and was prohibited from being displayed or worn inside the polling place.

The purpose of RSA 659:43 is to ensure that inside the polling place—and the casting of ballots to select our elected officials—is free from the pressure of explicit advocacy *for any* candidate or ballot measure. Voters must be able to cast their ballots free from such advocacy, whether it is by poll officials or other voters.

Pursuant to RSA 659:43, and based upon the investigation conducted by our Office, you are hereby ordered to **Cease and Desist from engaging in further electioneering inside the polling place in future elections**. Failure to do so could constitute a violation of RSA 659:43 and result in further enforcement action by this Office.

This matter is closed.

Sincerely,



Myles Matteson
Deputy General Counsel
New Hampshire Attorney General's Office
(603) 271-3650
myles.b.matteson@doj.nh.gov

cc: Paul Smith, Town of Littleton Police Chief

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOHN M. FORMELLA
ATTORNEY GENERAL



JAMES T. BOFFETTI
DEPUTY ATTORNEY GENERAL

June 23, 2022

Regis Roy, Supervisor of the Checklist
Town of Haverhill
[REDACTED]
Woodsville, NH

Re: **CEASE AND DESIST ORDER**
Violation of Official Duties and Responsibilities, Electioneering

Dear Supervisor Roy:

On March 15, 2021, this Office received a complaint alleging that you were engaging in unlawful electioneering during the March 13, 2021, Haverhill Town Election by asking people walking into the voting area where you were working as an election official to "vote no on Article 2." This investigation followed. You are ordered to Cease and Desist from any further improper actions.

I. **FACTUAL BACKGROUND**

a. **Initial Complaint**

On March 15, 2021, Haverhill Selectboard Vice-Chair Matthew Bjelobrck emailed this Office indicating a desire to file a formal complaint regarding actions that he observed during the March 13, 2021, Haverhill Town Election. In that complaint, Selectman Bjelobrck wrote that he saw you outside "in the parking lot" asking people walking "into the building" for the election to "vote no on Article 2." He further indicated that this occurred around noontime and that he observed you holding ballots, at times for thirty to forty five minutes after a voter had driven away in direct contradiction of the plan that the moderator had briefed town officials on in the final town virtual pre-meeting on March 11.

b. **Contact with Moderator Holden**

On March 16, 2021, this Office sent Selectman Bjelobrck's written complaint to Haverhill Town Moderator Alfred "Jay" Holden and asked him to respond within fifteen days. On March 25, 2021, Moderator Holden asked for more time to respond to the letter before following up days later with a report of the follow-up that he had conducted. In that report, he indicated that the allegations against you were completely false, noting that other election officials referred to

you as a “one man band” with how busy you appeared that day and recounting that he spoke with School Board Member Sabrina Brown who indicated that she worked with you for four hours on March 13, 2021 and did not observe you electioneering.

On February 23, 2022, Chief Investigator Richard Tracy met with Moderator Holden at the Grafton County Sheriff’s Office. The two discussed, among other things, the process for drive-up voting. Moderator Holden stated that they had set up a buzzer system where a voter could push the buzzer, which would alert election officials inside that someone outside wanted to vote. He stated that the buzzer was rarely used that day as you spent most of the time outside helping with the drive-up process. Moderator Holden explained that as voters drove up, you would take their identification inside to the polls to verify that they were registered with the ballot clerk and obtain the four ballots that were placed inside an envelope supplied by the Secretary of State’s Office. You would then direct the voter to pull up, fill out their ballots, and stick their arm out of the car when they were done. This often took a considerable amount of time to finish as there were over thirty articles on the town ballot alone. Once the voter finished voting and stuck an arm out the window, you would retrieve the envelope with ballots from the voter and deliver the envelope inside.

Moderator Holden stated that he did not hear any electioneering by election officials at the polls on the day of the election, but he acknowledged that he was inside most of the day while you were outside. Moderator Holden also indicated that you moved to Haverhill around 1969, that you were a long-time teacher in town, and that you were one of the most honest people that he knew.

c. Contact with Town Manager Codling

On March 18, 2021, Brigitte Codling emailed the Secretary of State’s Election Division, State Senator Bob Giuda, and Department of Revenue Director of the Municipal and Property Division James Gerry. In that email Manager Codling noted that the months leading up to the election were contentious, especially regarding HB 1129. Manager Codling wrote that she was present at the election on March 13, 2021, and that she heard you verbally telling voters to vote “[n]o on Article 2 so they could have an in-person Town Meeting in the summer.” Moderator Codling also noted that multiple people, including former Selectman Darwin Clogston, heard you telling people to vote “no” on Article 2 and to vote for Michael Graham as Selectman.

d. Contact with Office Administrator Aldrich

On March 19, 2021, Office Administrator LorieAnn Aldrich emailed this Office, raising a number of concerns that she witnessed while acting as an observer in the March 13 election. On September 24, 2021, Investigator Tracy met with Administrator Aldrich. In the course of that conversation, Administrator Aldrich indicated that, while she did not hear it when she went to vote, others told her that you were heard by more than one person telling voters to “vote no” on town warrant Article 2.

e. Contact with Assistant Town Manager Boucher

On September 24, 2021, Investigator Tracy spoke to Assistant Town Manager Jennifer Boucher. Assistant Manager Boucher indicated that she was at the polls on March 13, 2021 and saw you assisting voters who did not or could not enter the polls. She noted that you were having a lot of “in window” conversation with voters, describing you as sticking your head in the windows of vehicles as you handed people their ballots. While Assistant Manager Boucher could not hear from where she was standing, she found this behavior to be inappropriate.

f. Contact with Darwin Clogston

On or around March 17, 2021, former Haverhill Selectman Darwin Clogston spoke with Assistant Attorney General Nicholas Chong Yen to discuss concerns that Mr. Clogston had regarding the March 13, 2021, Haverhill Town Election. On November 10, 2021, Investigator Tracy spoke to Mr. Clogston. Mr. Clogston indicated that he spent nearly the entirety of election day outside at the polls in the electioneering zone. He explained how you were handling identification and ballots and said you were a “real trooper” for being the one to do that. Mr. Clogston noted that, on multiple occasions, he heard you tell voters to vote “no” on Article 2 as you were handing them their voting packet. He clarified that he did not hear you tell anyone to vote for Mike Graham and that he did not know who to bring his concerns to as Moderator Holden was also against Article 2.

g. Contact with Don and Kathleen Vaillancourt

On March 19, 2021, Don and Kathleen Vaillancourt sent an email to this Office expressing their concerns with the March 13, 2021, Haverhill Town Election. Investigator Tracy spoke to the Vaillancourts regarding their concerns. They explained that they did not go to vote until 6:15 pm because they were staying after the polls closed to assist with ballot counting. The Vaillancourts noted that you were assisting a voter outside who was sitting in a car but did not see or hear anything unusual about the occurrence and that you did not tell the voter how to vote.

h. Contact with Paul Forcier

On November 17, 2021, Investigator Tracy spoke with Paul Forcier over the phone as a follow-up to prior concerns that Mr. Forcier had raised with this office. Mr. Forcier explained that he voted in person on March 13, 2021, and that he saw you—his aunt—standing outside assisting voters. Mr. Forcier stated that you and he saw each other but did not have any kind of lengthy conversation. He stated that you did not tell him how to vote and he did not hear you tell anyone else how to vote, though he was only there for a short time as he walked in and out of the polls.

i. Contact with Selectman Bjelobrk

On December 7, 2021, Investigator Tracy spoke with Selectman Matthew Bjelobrk on the phone. Among other things, the two discussed your activity on March 13, 2021. Selectman Bjelobrk thought there were supposed to be two people assisting with the drive-up voting process

that had been put in place for the day but, from what he saw, you handled it alone. Selectman Bjelobrk indicated that at one point he heard you talking with two voters and telling them to vote “no” on Article 2. He noted that you and Dick Guy were the most vocal opponents of Article 2.

j. Contact with you

On February 23, 2022, Investigator Tracy met with you at the Grafton County Sheriff's Office to conduct an interview regarding this matter. In the course of that conversation, you explained some of the recent, contentious politics in town and what you did on the day of March 13, 2021. You insisted that you never told a voter to vote no on Article 2 and stated that you often said “no problem” that day. You indicated how upset you were over this incident, especially with everything that you had done and continue to do for the town.

k. Contact with Assistant Town Moderator Ballam

On February 23, 2022, Investigator Tracy met with Assistant Town Moderator Ed Ballam at the Grafton County Sheriff's Office regarding this investigation. Assistant Moderator Ballam indicated that he was not aware of any electioneering taking place at the polls on election day. Even though he was rarely outside on March 13, 2021, he believed you were a trusted election official and did not believe you would electioneer and tell voters how to vote on election day.

l. Contact with Mary Patridge-Jones

On March 18, 2021, Mary Patridge-Jones emailed this Office indicating that she went to vote on March 13, 2021, and heard you tell multiple voters entering the building to vote “no” on Article 2 and to vote for Mike Graham for selectman. On April 1, 2022, Investigator Tracy spoke to Ms. Patridge-Jones on the telephone, who stated that she hung around after voting on March 13, 2021 and spoke with Darwin Clogston and others as they came and went. She indicated that she had stepped aside for a moment and that was when she heard you telling a group of five or six voters to vote “no” on Article 2 and to support Michael Graham as they stepped into the polling area. Ms. Patridge-Jones further stated that she heard you repeat this to a second group of people a short time later. Finally, she indicated that she saw you help some drive-up voters and was not able to hear what you said to those individuals, but she did specifically hear you tell the groups mentioned above to vote against Article 2 and to support Michael Graham. She indicated that this whole incident had been disturbing to her.

m. Contact with Marilyn Blaisdell

On March 18, 2021, Marilyn Blaisdell emailed some concerns she had about the March 13, 2021, election to the New Hampshire Secretary of State. On March 24, 2022, Investigator Tracy spoke with Ms. Blaisdell. She voiced her frustration about Haverhill's politics and told Investigator Tracy what she remembered from the March 13, 2021, election. Ms. Blaisdell went to the middle school to vote, bringing 80-year-old Lorraine Prescott with her. As they were both walking into the school, they could hear you yelling “vote no” on Article 2. She indicated that there was no mistake in what she heard and that you were not being discrete about it. Ms. Blaisdell further indicated that she did not realize until after the election that anything was

wrong. She saw your picture in a local newspaper and realized you were working as an election official at that time.

II. APPLICABLE LAW

RSA 659:43 states in relevant part that “[e]lectioneering shall be prohibited within the polling place building.” “Electioneering” means “visibly displaying or audibly disseminating information that a reasonable person would believe explicitly advocates for or against any candidate, political party, or measure being voted.” RSA 652:16-h. This includes, but is not limited to, wearing clothing that displays a candidate’s name. RSA 652:16-h, I.

The law further contemplates penalties for violations, which include –

- Whoever violates any of the provisions of this section shall be guilty of a violation.
- Whoever violates any of the provisions of this section shall be subject to a civil penalty not to exceed \$1,000.

RSA 659:43, VIII & IX.

RSA 659:44 states that “[n]o election officer shall electioneer while in the performance of his official duties. For the purposes of this section, ‘electioneer’ shall mean to act in any way specifically designed to influence the vote of a voter on any question or office. Any person who violates this provision shall be guilty of a misdemeanor.”

Finally, RSA 652:14 provides that “[e]lection officer’ shall mean any moderator, deputy moderator, assistant moderator, town clerk, deputy town clerk, city clerk, deputy city clerk, ward clerk, selectman, **supervisor of the checklist**, registrar, or deputy registrar.” (Emphasis added).

III. ANALYSIS

In this case, you are a supervisor of the checklist, and election official identified in RSA 652:14. That means that you are subject to the prohibition on electioneering in RSA 652:44. Multiple individuals observed hearing you advocate either for voting “no” on Article 2 or voting for Mike Graham. While you indicated to Investigator Tracy that you were saying “no problem” on March 13, 2021, implying that people simply misheard you, no fewer than four individuals came forward alleging that they heard you telling voters how to vote. The Town Manager contacted this office in the days following the election as multiple people had told her that they had heard you electioneering. As the above facts indicate, the Town Manager was not the only person to hear these reports. All of this occurred while you were working as an election official at a polling place on election day. As such, the allegations against you constitute “electioneering” within the meaning of RSA 652:16-h.

IV. CONCLUSION

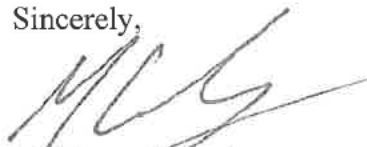
The purpose of RSA 659:43 is to ensure that the polling place—and the casting of ballots to select our elected officials—is free from the pressure of explicit advocacy *for any* candidate or ballot measure. Voters must be able to cast their ballots free from such advocacy, whether it is by poll officials or other voters.

This Office investigated serious allegations against you and revealed evidence supporting those allegations. Based on our investigation, we find that your conduct was grossly inappropriate and antithetical to your duties as an election official. As an elected official you swore an oath to faithfully and impartially discharge and perform all the duties of your office and act consistent with the rules and regulations of the New Hampshire Constitution and state law. The evidence concerning your advocacy at the polls indicates that you failed in that fundamental responsibility and ignored your obligations to the voters to whom you owed a duty as an elected official.

You are hereby ordered to **Cease and Desist from engaging in misconduct relating to electioneering in the polling place.** Failing to do so could constitute violations of the aforementioned statutes and result in further enforcement action by this Office.

This matter will be closed. Please contact me if you have any questions.

Sincerely,



Matthew G. Conley
Attorney
Civil Bureau
matthew.g.conley@doj.nh.gov

cc: Matthew Bjelobrk
Darwin Clogston
Haverhill Town Clerk
Haverhill Board of Selectmen

000157

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOHN M. FORMELLA
ATTORNEY GENERAL



JAMES T. BOFFETTI
DEPUTY ATTORNEY GENERAL

August 19, 2022

Fred Garofalo, Chair of the Haverhill Selectboard
Town of Haverhill
[REDACTED]
Woodsville, NH

Re: Haverhill March 13, 2021 Election, Alleged Illegal Activity

Dear Selectman Garofalo:

Beginning on March 15, 2021, this Office received a number of complaints alleging improper or unlawful activity during the March 13, 2021, Haverhill Town Election. This investigation followed. This Office notes that complaints relating to Supervisor of the Checklist Regis Roy was addressed in a separate letter. This Office concludes that no unlawful activity otherwise took place.

I. FACTUAL BACKGROUND

a. Initial Complaint

On March 15, 2021, Haverhill Selectboard Vice-Chair Matthew Bjelobrk emailed this Office indicating a desire to file a formal complaint regarding a number of actions that he observed during the March 13, 2021, Town Election. Mr. Bjelobrk wrote that Haverhill Town Moderator Alfred "Jay" Holden told Police Sgt. Cam Elliot on the morning of the election to remove several campaign signs belonging to candidate Darwin Clogston that were posted on private property "nearly one-half mile away from the polling place." Specifically, the signs were removed from along Airport Road and Route 16.

Mr. Bjelobrk expressed concern that some of the volunteers counting school ballots at the end of the night migrated over to the town ballot counting side of the room while ballots were still being counted. Mr. Bjelobrk noted that Vickie Wyman was one of these volunteers. He then noted that one of the ballot observers reportedly saw a town ballot volunteer counter erasing marks from a ballot.

Mr. Bjelobrk also questioned Moderator Holden swearing in Assistant Town Moderator Ed Ballam since Mr. Ballam was a vocal critic against Article 2 and Darwin Clogston for selectman. Mr. Bjelobrk expressed concern with Mr. Ballam's handling of ballots during the

ballot count. Mr. Bjelobrk also noticed that Moderator Holden was seen looking at ballots and making notes on a piece of paper prior to placing the ballot in the ballot box.

Mr. Bjelobrk noted that the election was contentious and people used the Woodsville Precinct electric billing process to send residents a letter asking voters to vote "no" on Article 2 and to endorse Michael Graham for selectman.

Finally, Mr. Bjelobrk wrote Woodsville officials allowed for a Mike Graham sign to be placed on town property in front of the fire department, of which he provided a photo.

b. Contact with Moderator Holden

On March 16, 2021, this Office sent Mr. Bjelobrk's written complaint to Mr. Holden and asked him to respond within fifteen days. On March 25, 2021, Mr. Holden asked for more time to respond to the letter before following up days later with a report of the follow-up that he had conducted.

In that report, he indicated the accusation that he had removed signs from private property was "categorically...false" and noted that the signs were placed along the sides of Morrill Drive, the road off of Route 116 leading to the polling location. Mr. Holden explained that, drawing from his prior experience as a moderator, he was aware that those signs were illegal in accordance with New Hampshire RSA 664:17. He further explained that, after arriving at the polling place, he spoke to Mr. Ballam and the two agreed that the signs should be removed. Mr. Holden contacted Grafton County Dispatch to request that the on-call duty officer to contact him regarding the signs. Moderator Holden then spoke to Sgt. Elliot and explained what he was requesting and why. After looking into the appropriate procedure, Sgt. Elliot called Mr. Holden back and explained that either he would remove the signs himself or have Darwin Clogston do it. Both Mr. Holden and Mr. Ballam then spoke with Sgt. Elliot at the polling location where they explained to him that they only wanted the signs removed from Morrill Drive and nowhere else. Sgt. Elliot then did this, recording the process on his body worn camera. Mr. Holden commented that while he was concerned about campaign signs in the polling areas, he was not involved with signs in the rest of the town. He questioned why Mr. Bjelobrk had not contacted the Woodsville Precinct or the Haverhill Police Department to have the signs removed as Mr. Holden had.

Mr. Holden appeared to agree that Vickie Wyman had "migrated" as Mr. Bjelobrk had indicated and spoke to Robin Irwin and Brenda Jewett. Both individuals indicated that they had completed counting their ballots as had most of the rest of that table. He noted that Vickie did ask what they thought the results of the race might be and the two told her that they believed Michael Graham would defeat Darwin Clogston and Article 2 would be defeated as well.

Mr. Holden noted that, while there was one individual having trouble figuring out how to tally the ballot, no one was "erasing ballots." Tammy Fortier had a question regarding the absentee ballots and asked her father if he could check her tally sheet. She spoke with her father and Mr. Holden, asking questions and explaining her concerns. After doing so, Mr. Holden had Michael Marshall recount her ballots separately. The two came up with identical numbers except

for disagreement over the placement of one over-counted vote that should have been recorded as an under-counted vote.

In recounting Mr. Ballam's swearing in, Mr. Holden noted that Mr. Ballam already had been sworn in as the Assistant Town Moderator on January 21, 2021. However, Mr. Holden was aware that he would need help with the school part of the election on March 13, 2021. Therefore, Mr. Holden conducted a second swearing in before the polls opened to ensure that Assistant Moderator Ballam could assist.

Mr. Holden indicated that Mr. Ballam had moved ballots at Mr. Holden's request. Mr. Ballam began to place ballots inside of a cardboard box. When ballot observers asked Mr. Ballam what he was doing and why, he asked Mr. Holden how to proceed. Mr. Holden told him to have the ballot counters remain in control of their respective ballots.

In answering the allegation that he was looking at ballots and writing on a pad of paper, Mr. Holden wrote that he "couldn't help but look at the ballots" as there were four ballots handed to him in ballot sleeves, two for the town and two for the school. Mr. Holden sorted these ballots into their respective boxes. He also stated that he was writing notes. Specifically, he was "compiling a list of ballot counters for both the town and school votes." Mr. Holden wrote that more ballot counters were needed and insisted that he was using the pad of paper to keep track of who had volunteered throughout the day to help and who to put where in order to avoid conflicts of interest.

On February 23, 2022, Chief Investigator Richard Tracy met with Mr. Holden at the Grafton County Sheriff's Office. The two discussed many of the topics that Mr. Holden had addressed in his written reply to this Office, with Mr. Holden repeating the written representations that he had made. Mr. Holden provided Investigator Tracy with the pad of paper that he had used on the night of the election. Investigator Tracy made a copy of a page that Mr. Holden represented was the page of volunteers for the 2021 election. Investigator Tracy observed that the page was titled "2021 Ballot Counters" and contained forty names, some with telephone numbers, below two subheadings: "Town" and "School."

c. Contact with Town Manager Codling

On March 18, 2021, Brigitte Codling emailed the Secretary of State's Election Division, State Senator Bob Giuda, and Department of Revenue Director of the Municipal and Property Division James Gerry. In that email Ms. Codling addressed a number of complaints regarding the March 13, 2021 election. She noted that the months leading up to the election were contentious, especially regarding HB1129. Ms. Codling wrote that she was present at the election on March 13, 2021, and that she observed Mr. Holden "unfolding the Alternative ballots and reviewing them" prior to placing them in the ballot box and making notes on a pad of paper.

Ms. Codling further indicated that she believed that the signs that Sgt. Elliot removed were on land that was privately owned or leased.

d. Contact with Office Administrator Aldrich

On March 19, 2021, Office Administrator LorieAnn Aldrich emailed this Office, raising a number of concerns that she witnessed while acting as an observer in the March 13 election. Ms. Aldrich wrote that she “observed several counters writing on and erasing other counters’ tally sheets” and that she saw Mr. Ballam move piles of ballots several times.

Ms. Aldrich said that after the vote, she saw one of the ballot counters first pumping in celebration when the results of Article 2 were announced, noting that this individual was the same one that she had observed writing on and erasing on another ballot counters tally sheet.

On September 24, 2021, Investigator Tracy met with Ms. Aldrich to discuss the concerns she had raised. Ms. Aldrich provided Investigator Tracy with an email exchange between the town manager and Sgt. Elliot regarding his removal of the Darwin Clogston signs. Ms. Aldrich also provided a copy of Sgt. Elliot’s body camera footage documenting his removal of the signs.

e. Contact with Assistant Town Manager Boucher

On September 24, 2021, Investigator Tracy spoke to Assistant Town Manager Jennifer Boucher. Ms. Boucher indicated that she was at the polls on March 13, 2021, and saw Mr. Holden and Mr. Ballam opening ballots prior to placing them in the collection box then writing something down on a piece of paper. Ms. Boucher also noted that Mr. Ballam oversaw the school ballot counting while Mr. Holden was supposed to oversee the town ballot counting process, but he had his back to the town counting table and, in her opinion, Mr. Holden was not properly watching the process.

Ms. Boucher added that the counting for the school ballots finished first with some of the school ballot counters moving to comingle with the town ballot counters and engaging in conversation that she could not hear.

f. Contact with Darwin Clogston

On or around March 17, 2021, former Haverhill Selectman Darwin Clogston spoke with Assistant Attorney General Nicholas Chong Yen to discuss concerns that Mr. Clogston had in regard to the March 13, 2021, Haverhill Town Election. On November 10, 2021, Investigator Tracy spoke to Mr. Clogston. Mr. Clogston believed that Mr. Holden had only Mr. Clogston’s signs removed on the day of the election, noting that Mr. Holden had publicly endorsed Mr. Graham.

g. Contact with Don and Kathleen Vaillancourt

On March 19, 2021, Don and Kathleen Vaillancourt sent an email to this Office expressing their concerns with the March 13, 2021, Haverhill Town Election. Investigator Tracy spoke to the Vaillancourts regarding their concerns. They explained that they did not go to vote until 6:15 pm because they were staying after the polls closed to assist with ballot counting. The Vaillancourts noted that about forty people took part in ballot counting and those people were

divided into two groups, one for the school ballots and one for the town ballots. The group counting the school ballots finished first. The Vaillancourts did not notice anybody marking, erasing, or destroying ballots but they did notice that the school ballot counters comingled with the town ballot counters after they had finished which they found inappropriate.

h. Further Contact with Selectman Bjelobrk

On December 7, 2021, Investigator Tracy spoke with Mr. Bjelobrk on the phone. Among other things, the two discussed the removal of Mr. Clogston's campaign signs by Sgt. Elliot. Investigator Tracy informed him that Investigator Tracy reviewed the police report and Sgt. Elliot's video recording of the sign removal. Investigator Tracy noted that they all appeared to be on the access road or long driveway leading from Route 116 to the middle school, which the moderator was within his rights to have removed. Investigator Tracy told him that signs other than Mr. Clogston's were removed as well. Mr. Bjelobrk disagreed with Investigator Tracy's assessment of the property, saying that the land is private property owned by Howard Hatch. Investigator Tracy explained that Morrill Drive is an access road that leads to the school with no other homes, businesses, or driveways on that section of roadway and that the signs that Sgt. Elliot had removed were just a few feet off the paved portion of the road.

Mr. Bjelobrk told Investigator Tracy that he assisted with the counting of the school ballots after the closing of the polls. That group finished its task before the group counting the town ballots finished. Mr. Bjelobrk stated that about six of the school ballot counters left the school side and comingled with the town ballot counters while they were still counting town ballots. Mr. Bjelobrk stated that an observer reportedly heard Mr. Ballam leaning over a table where ballots were being counted stating "make it no, make it no."

A local physical therapist in town by the name of Marie told Mr. Bjelobrk that some of her patients were told to vote "no" on Article 2 by election officials on election day as they walked into the polls to vote and that doing so would allow them to have in person meetings. Investigator Tracy asked Mr. Bjelobrk if any of them would be willing to come forward, but Mr. Bjelobrk expressed concerns that Marie would be violating patient confidentiality by providing names.

i. Contact with Assistant Town Moderator Ballam

On February 23, 2022, Investigator Tracy met with Assistant Town Moderator Ed Ballam at the Grafton County Sheriff's Office regarding this investigation. Mr. Ballam recalled how, on the day of the election, he and Mr. Holden had discussed the political signs that had been posted on Morrill Drive and how both he and Mr. Holden believed that they had been illegally placed. He and Mr. Holden eventually contacted the Haverhill Police department and coordinated with Sgt. Elliot to have the signs removed.

During that day Mr. Ballam did what Mr. Holden needed him to do, primarily collecting and depositing school ballots into the proper box. Mr. Ballam explained the voting procedure and noted that he and Mr. Holden would separate the ballots, make certain they were correctly folded, and place them into the appropriate box. Mr. Ballam noted that Mr. Holden always has a

yellow note pad with him and Mr. Holden used it to write down questions from voters and to write down the name and number of individuals who had volunteered to help count ballots at the end of the night.

Mr. Ballam noted that the school ballot counters finished first and a few of them walked around. He did not recall if any of them comingled with the town ballot counters.

j. Contact with Vickie Wyman

On February 23, 2022, Investigator Tracy met with Vickie Wyman. Ms. Wyman confirmed that she had volunteered to assist with counting ballots at the end of the night during the March, 2021 town election. Ms. Wyman stated that Mr. Holden divided the counters into two groups, one for school voting and the other for town voting with the school voting counters finishing about ten minutes before the town counters did. Ms. Wyman acknowledged that she walked over from the school side of town to speak with Brenda Jewett and Robin Irwin who were counting town ballots. She asked them about how they thought the election was going with respect to Article 2. They said that they believed Article 2 would be defeated and Clogston would not be reelected.

Ms. Wyman admitted that she stayed for the final count and that she let out a cheer and threw her arms up in the air when she learned that Article 2 had been defeated.

k. Contact with Bookkeeper and Administrative Assistant Diane Thompson

On March 19, 2021 Bookkeeper Thompson emailed this Office raising a number of concerns related to the March 13, 2021 election. First, she expressed concern that she had seen Vicky Wyman approach one of the ballot counters and saw the two of them whispering together. When Ms. Wyman walked away, the ballot counter could be seen "erasing items on the ballot tally sheet." Ms. Thompson indicated that she reported this observation to Ms. Codling. On April 8, 2021, Ms. Thompson emailed this Office again indicated that she had been contacted by Mr. Holden who told her that he was looking into the matter.

On September 24, 2021, Investigator Tracy spoke with Ms. Thompson and explained to her that this Office had asked Mr. Holden to look into this matter and some the complaints that had been raised, something that was not uncommon in such cases. She responded that she had not spoken to Mr. Holden so as to not interfere with this Office's investigation.

Ms. Thompson then explained that she acted as an independent observer on March 13, 2021. Ms. Thompson explained that during the ballot count there were two groups of ballot counters. On one side of the room people were counting school ballots and on the other side they were counting town ballots. Ms. Thompson saw Vicki Wyman, who was counting on the school ballot side, get up and walk over to the town ballot side and whispered with one of the ballot counters seated there. Wyman walked away and then Ms. Thompson saw the ballot counter erasing something from the ballot tally sheet. Ms. Thompson notified the town manager and the town clerk and then went back to observing.

Ms. Thompson went on to say that she observed Mr. Holden moving ballots multiple times, saying that he appeared disorganized and that every movement of the ballots was an opportunity for a ballot to be lost or misplaced.

II. APPLICABLE LAW AND PROCEDURE

RSA 652:14 provides that “[e]lection officer” shall mean any moderator, deputy moderator, assistant moderator, town clerk, deputy town clerk, city clerk, deputy city clerk, ward clerk, selectman, supervisor of the checklist, registrar, or deputy registrar.”

Under RSA 652:16-h, “[e]lectioneering means visibly or audibly disseminating information that a reasonable person would believe explicitly advocates for or against any candidate, political party, or measure being voted.” This definition includes “any communication that a reasonable person would believe explicitly advocates for or against any candidate, political party or measure...” *Id.*

RSA 659:44 states that “[n]o election officer shall electioneer while in the performance of his official duties. For the purposes of this section, ‘electioneer’ shall mean to act in any way specifically designed to influence the vote of a voter on any question or office. Any person who violates this provision shall be guilty of a misdemeanor.”

RSA 659:44-a states that “[n]o public employee...shall electioneer while in the performance of his or her official duties.”

RSA 664:17 states, in relevant part, that “[n]o political advertising shall be placed on or affixed to any public property including highway rights-of-way or private property without the owner’s consent....Political advertising placed on or affixed to any public property may be removed by state, city, or town maintenance or law enforcement personnel.”

Per RSA 666:3, “[a]ny public officer upon whom a duty relating to elections is imposed who shall knowingly fail to perform such duty or who shall knowingly perform it in such a way as to hinder the objects thereof shall be guilty of a misdemeanor if no other penalty is provided by law.” As the New Hampshire Election Procedure Manual: 2020-2021, p. 153, provides:

The moderator may select volunteers to assist election officers in counting ballots. These volunteers must be voters in the town or ward or 17-year-olds who would be qualified as a voter were they 18 years old. RSA 658:7 gives the moderator authority to appoint such election officials as he or she deems necessary. Swear in these volunteers as election officers pro tem. As election officers, the volunteer ballot counters are swearing or affirming that they will perform their duties lawfully and they become subject to criminal prosecution for official misconduct pursuant to RSA 666:3. Written oaths must be completed and filed with the clerk. RSA 42:1; RSA 42:7, RSA 42:8; RSA 658:4.

Finally, the New Hampshire Election procedure manual repeatedly emphasizes that elections must be neutral process in which the public can place its trust: "This process reinforces the neutrality and enhances the legitimacy of the counting process." p. 359.

III. ANALYSIS

a. Posting Political Signs

The political signs that Sgt. Elliot removed were unlawfully placed along public property. Morrill Drive is an access road connecting Benton Road and Airport Road. With the exception of the Haverhill Cooperative Middle School, there are no other homes, driveways, or businesses along it. The signs at issue were placed just a few feet off of a road that serves no other purpose than as a public access way to the school. Therefore, these signs had been placed in violation of RSA 664:17. After speaking to Haverhill officials and reviewing Sgt. Elliot's body camera footage, this Office concludes that these signs were appropriately and lawfully removed. Therefore, this point is moot and no further action will be taken.

b. Swearing in Ed Ballam

Per RSA 658:7, Moderator Holden had the lawful authority to swear in volunteers to assist with the election process. According to multiple witnesses, Mr. Ballam was sworn in as required by the law and assisted Mr. Holden at Mr. Holden's direction. Nothing about this constitutes unlawful activity. Therefore, no further action will be taken.

c. Cheering of volunteers and the intermingling of volunteers

Though the moderator possesses the lawful authority to appoint such election officials as he or she deems necessary, such election officials have a responsibility to execute their duties lawfully. *See* New Hampshire Election Procedure Manual: 2020-2021, p. 153. In this case we do not find that any election officials engaged in unlawful conduct such as electioneering or tampering with votes. However, the processing of our elections must be a neutral process in which the public can participate with trust and confidence. We urge all New Hampshire election officials to sufficiently train assisting volunteers as to what their duties are as well as their responsibility to be neutral and unbiased in the course of executing those duties. Such training ensures that election officials do not run afoul of unlawful activity and helps to inspire public confidence in our elections.

d. Note taking and modification of tallies

After investigating allegations that Mr. Holden was making unlawful notes and that volunteers were unlawfully modifying ballots or tally sheets, we find that no such violations occurred. Mr. Holden presented our Office with physical evidence of what he had been writing that night. Mr. Ballam confirmed that Mr. Holden had been writing the names of volunteers and a number of witnesses confirmed that volunteers were divided into two groups as appeared on Mr. Holden's writing pad. Though there was some confusion as the counting progressed, those volunteers were supervised and had their questions answered when such confusion arose. We do not find that any

volunteers were unlawfully erasing or modifying votes in the course of the election. Both Mr. Holden and Mr. Ballam further explained that some ballots had to be refolded and placed into the appropriate box. We do not find that any ballots were inappropriately handled in this instance.

IV. CONCLUSION

All election officials in New Hampshire should strive to conduct their elections in a manner that is organized, efficient, and instills public confidence in our democratic process. The New Hampshire Department of State provides a number of resources to this end in the form of trainings and the New Hampshire Election Procedure Manual. While we find that no violations of New Hampshire State law occurred in the items addressed here, we urge you to take advantage of the resources that are publicly and freely available to train election officials and reduce confusion on the day of the election. Doing so ensures that our officials are executing their duties responsibly and promotes the public trust that is so necessary for our elections and institutions to function.

This matter will be closed. Please contact me if you have any questions.

Sincerely,



Matthew G. Conley
Attorney
Civil Bureau
matthew.g.conley@doj.nh.gov

cc: Matthew Bjelobrk
Darwin Clogston
Haverhill Town Clerk
Haverhill Board of Selectmen
Vickie Wyman
Town Manager Brigitte Codling
Former Town Moderator Albert Holden

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOHN M. FORMELLA
ATTORNEY GENERAL



JAMES T. BOFFETTI
DEPUTY ATTORNEY GENERAL

August 19, 2022

Paul Forcier

[REDACTED]
Haverhill, NH (Woodsville) 03785

Re: Haverhill Electioneering Facebook Post

Dear Mr. Forcier:

On March 8, 2021, you contacted this Office alleging improper or unlawful activity regarding a Facebook ad prior to the March 13, 2021, Haverhill Town Election. This investigation followed. This Office concludes that no unlawful activity took place in this instance.

I. FACTUAL BACKGROUND

a. Contact with you

You emailed this Office on March 8, 2021, concerning a post made to the Town of Haverhill website. The post itself explained the effects of voting on Article 2 but also expressly advocated for Haverhill residents to "vote YES on Article 02." You believed that the post violated RSA 659:44-a and concerned that a municipal employee had made the posting.

In emails exchanged with Attorney Nicholas Chong Yen, you indicated that what you had seen was in a Facebook post put up by Town Manager Codling on the Town of Haverhill's Facebook page. The post was titled "Understanding Article 2 – Optional Meeting Procedures and why you should vote YES..."

On November 17, 2021, Investigator Tracy spoke with you over the phone regarding the complaints that you made to this Office. You felt strongly that the Facebook post was illegal electioneering.

b. Contact with Brigitte Codling

On July 18, 2022, Investigator Tracy reached out to Town Manager Brigitte Codling to speak with her regarding the Facebook post. She confirmed that she and her staff had created the Facebook post. Manager Codling also told Investigator Tracy that the content of the post had

also been published as an advertisement in the March 4, 2021 edition of the Bridge Weekly. Manager Codling noted that Sherri Sargent, one of her appointees to work on public relations at the time, requested the advertisement be placed and paid for it. Manager Codling provided an invoice to verify this claim.

On July 28, 2022, Manager Codling sent an email to Investigator Tracy describing the procedural history of Article 2 and providing documentation demonstrating that Article 2 was placed on the ballot with the approval of the Board of Selectman following discussions of procedures and recommendations that she made so that the town could comply with HB 1129.

II. APPLICABLE LAW

RSA 652:14 provides that “[e]lection officer’ shall mean any moderator, deputy moderator, assistant moderator, town clerk, deputy town clerk, city clerk, deputy city clerk, ward clerk, selectman, supervisor of the checklist, registrar, or deputy registrar.”

Under RSA 652:16-h, “[e]lectioneering means visibly or audibly disseminating information that a reasonable person would believe explicitly advocates for or against any candidate, political party, or measure being voted.” This definition includes “any communication that a reasonable person would believe explicitly advocates for or against any candidate, political party or measure...” *Id.*

RSA 659:44 states that “[n]o election officer shall electioneer while in the performance of his official duties. For the purposes of this section, ‘electioneer’ shall mean to act in any way specifically designed to influence the vote of a voter on any question or office. Any person who violates this provision shall be guilty of a misdemeanor.”

RSA 659:44-a prohibits “public employees,” as defined under RSA 273-A:1, IX from engaging in electioneering. As a general principle, these employees must not use government property or equipment to engage in electioneering. RSA 659:44-a, II. RSA 273-A:1, IX identifies specific exceptions of persons who do not constitute “public employees.” Relevant here is the exception for those appointed by the chief executive or legislative body of any political subdivision. RSA 273-A:1, IX(b). Town managers are appointed by the board of selectmen. RSA 37:2.

However, the government may use public funds to support its own measures. Epping Residents For Principled Government v. Epping School Board, No. 05-E-0094, Pg. 2 (N.H. Super. Ct. June 15, 2005). See also Johanns v. Livestock Marketing Association, 544 U.S. 550, 559 (2005). New Hampshire courts have specifically addressed statements “made by elected public officials speaking on behalf of their respective public entities” where “[t]he public officials recommended residents support warrant articles that their respective public entities believed would benefit residents’ education and safety.” Epping Residents for Principled Government, No. 05-E-0094, Pg. 3. In such instances, “the statements were made in furtherance of a public purpose and not private statements...” in violation of the law. *Id.*

III. ANALYSIS

Manager Codling admitted to posting this letter on the Town of Haverhill's Facebook page while in the performance of her official duties. Sherri Sargent arranged for this same information to run as an ad in the Bridge Weekly at her direction and in the course of official duties. Therefore, both constitute electioneering and would trigger the prohibition under RSA 659:44-a if they were carried out by non-exempt public employees.

Manager Codling falls squarely into the appointed persons exception RSA 273-A:1. Therefore, she is not subject to the prohibition on electioneering mandated by RSA 659:44-a.

It is unclear if all of Manager Codling's employees are non-exempt employees. As indicated above, those appointed by "the chief executive or legislative body of the public employer" are exempt employees. RSA 273-A:1, IX(b). The New Hampshire Supreme Court has previously ruled that city managers are chief executives. In re Town of Litchfield, 147 N.H. 415 (2002) (citing American Federation of State, County, and Municipal Employees, AFL-CIO v. City of Keene, 108 N.H. 68 (1967)). In so finding, the court noted that "the city manager is the 'chief executive officer of the city' and has 'general supervision of the property or business affairs of the city. He has 'charge, control, and supervision, subject to direction of the governing body', of the Public Works Department of Keene." 108 N.H. at 70.

Manager Codling's powers and duties echo this finding in that she is "the administrative head of all departments of the town and [is] responsible for the efficient administration thereof, except as herein otherwise provided. [She] shall have general supervision of the property and business affairs of the town and of the expenditure of moneys appropriated by it for town purposes..." RSA 37:5. Extending the Supreme Court's prior reasoning to the case at hand, Manager Codling is the chief executive of the town. Therefore, it appears that employees that she appoints are exempt employees under RSA 273-A:1.

Additionally, even if a non-exempt employee had acted in this case, we are left with the general principle that the government may use public funds to support its own measures. Epping Residents For Principled Government v. Epping School Board, No. 05-E-0094, Pg. 2 (N.H. Super. Ct. June 15, 2005). See also Johanns v. Livestock Marketing Association, 544 U.S. 550, 559 (2005). This Office has previously communicated with agencies and organizations regarding possible violations of RSA 659:44-a, II, in circumstances where government employees were using government property or equipment to engage in electioneering. However, in those instances, the electioneering materials were not centered on government speech supporting its own measures.

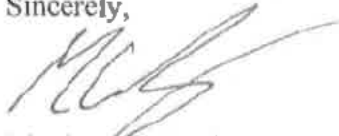
That is not the case here. Article 2 was a government measure, one that was specifically designed to carry on the business of government in accordance with the law. As in the Epping Residents case, the statements at issue here were made with the belief that they would help residents understand the government measure and were made to advance a public interest as opposed to a private interest. Therefore, Manager Codling or her employees posting the advertisement was not in violation of RSA 659:44-a.

IV. CONCLUSION

Manager Codling's actions were permissible under the laws of the State of New Hampshire, and do not constitute impermissible electioneering

This matter will be closed. Please contact me if you have any questions.

Sincerely,



Matthew G. Conley
Attorney
Civil Bureau
matthew.g.conley@doj.nh.gov
(603) 271-6765

cc: Haverhill Board of Selectmen
Town Manager Brigitte Codling
Former Town Moderator Albert Holden

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
SUPERIOR COURT

Belknap Superior Court
64 Court St.
Laconia NH 03246

Telephone: 1-855-212-1234
TTY/TDD Relay: (800) 735-2964
http://www.courts.state.nh.us

RETURN FROM SUPERIOR COURT – HOUSE OF CORRECTIONS

Case Name: State v. Todd Krysiak
Case Number: 211-2019-CR-00350
Name: Todd Krysiak [REDACTED] Alton NH 03809
DOB: [REDACTED]
Charging document: Indictment

Offense: Vote in More than 1 State
GOC:
Charge ID: 1630698C
RSA: 659:34-a
Date of Offense: November 08, 2016

Disposition: Guilty/Chargeable By: Plea
A finding of GUILTY/CHARGEABLE is entered.
Conviction: Felony
Sentence: see attached

April 22, 2022 _____ Hon. Amy L. Ignatius _____ Abigail Albee _____
Date Presiding Justice Clerk of Court

MITTIMUS

In accordance with this sentence, the Sheriff is ordered to deliver the defendant to the **Belknap County House of Corrections**. Said institution is required to receive the Defendant and detain him/her until the Term of Confinement has expired or s/he is otherwise discharged by due course of law.

Attest: _____
Clerk of Court

SHERIFF'S RETURN

I DELIVERED THE DEFENDANT TO THE **Belknap County House of Corrections** and gave a copy of this order to the Superintendent.

_____ Date _____ Sheriff

J-ONE: State Police DMV

C: Dept. of Corrections Offender Records Sheriff Office of Cost Containment
 Prosecutor Jessica A. King, ESQ; Myles Brand Matteson, ESQ Defendant
Defense Attorney David P. Bodanza, ESQ
 Sex Offender Registry Other _____ Dist Div. _____

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
<http://www.courts.state.nh.us>

Court Name: Belknap Superior Court
Case Name: State v. Todd Krysiak
Case Number: 211-2019-CR-00350 Charge ID Number: 1630698C
(if known)

HOUSE OF CORRECTIONS SENTENCE

Plea/Verdict: Guilty	
Crime: Voting in More than One State	Date of Crime: 11/08/2016

A finding of GUILTY/TRUE is entered.

CONVICTION

This conviction is for a Felony

- A. The defendant has been convicted of Domestic Violence contrary to RSA 631:2-b or of an offense recorded as Domestic Violence. See attached Domestic Violence Sentencing Addendum.
- B. The defendant has been convicted of a misdemeanor, other than RSA 631:2-b or an offense recorded as Domestic Violence, which includes as an element of the offense, the use or attempted use of physical force or threatened use of a deadly weapon, and the defendant's relationship to the victim is:

OR The defendant is cohabiting or cohabited with victim as a _____

OR A person similarly situated to _____

CONFINEMENT

- A. The defendant is sentenced to the House of Corrections for a period of 90 days.
Pretrial confinement credit is _____ days.
- B. This sentence is to be served as follows:
- Stand committed Commencing _____
- Consecutive weekends from _____ PM Friday to _____ PM Sunday beginning _____
- All _____ of the sentence is suspended during good behavior and compliance with all terms and conditions of this order. Any suspended sentence may be imposed after hearing at the request of the State. The suspended sentence begins today and ends 2 years from today or release on charge ID number _____.
- _____ of the sentence is deferred for a period of _____.
The Court retains jurisdiction up to and after the deferred period to impose or terminate the sentence or to suspend or further defer the sentence for an additional period of _____.
Thirty (30) days prior to the expiration of the deferred period, the defendant may petition the Court to show cause why the deferred commitment should not be imposed. Failure to petition within the prescribed time will result in the immediate issuance of a warrant for the defendant's arrest.
- Other: _____
- C. The sentence is consecutive to case number and charge ID _____
 concurrent with case number and charge ID _____
- D. The court recommends to the county correctional authority:
- Work release consistent with administrative regulations.
- Drug and alcohol treatment and counseling.
- Sexual offender program.
- _____

Case Name: State v. Todd Krysiak

Case Number: 211-2019-CR-00350

HOUSE OF CORRECTIONS SENTENCE

If required by statute or Department of Corrections policies and procedures, the defendant shall provide a sample for DNA analysis.

PROBATION

- A. The defendant is placed on probation for a period of _____ year(s), upon the usual terms of probation and any special terms of probation determined by the probation/parole officer.

Effective: Forthwith Upon release from _____

The defendant is ordered to report immediately, or immediately upon release, to the nearest Probation/Parole Field Office.

- B. Subject to the provisions of RSA 504-A:4, III, the probation/parole officer is granted the authority to impose a jail sentence of 1 to 7 days in response to a violation of a condition of probation, not to exceed a total of 30 days during the probationary period.

Violation of probation or any of the terms of this sentence may result in revocation of probation and imposition of any sentence within the legal limits for the underlying offense.

FINANCIAL OBLIGATIONS

- A. **Fines and Fees:**

Fine of \$ 4,000.00, plus a statutory penalty assessment of \$ 960.00 to be paid:

Today

By October 21, 2022

Through the Department of Corrections as directed by the Probation/Parole Officer. A 10 % service charge is assessed by DOC for the collection of fines and fees, other than supervision fees.

\$ _____ of the fine and \$ _____ of the penalty assessment is suspended for _____ year(s).

A \$25.00 fee is assessed in each case file when a fine is paid on a date later than sentencing.

- B. **Restitution:**

The defendant shall pay restitution of \$ _____ to _____

Restitution shall be paid through the Department of Corrections as directed by the Probation/Parole Officer. A 17% administrative fee is assessed for the collection of restitution.

At the request of the defendant or the Department of Corrections, a hearing may be scheduled on the amount or method of payment of restitution.

Restitution is not ordered because: _____

- C. **Appointed Counsel: NOTE:** Financial Obligations, Section C is NOT a term and condition of the sentence.

The Court finds that the defendant has the ability to pay:

counsel fees and expenses in the amount of \$ _____

payable through _____ in the amount of \$ _____ per month.

The Court finds that the defendant has no ability to pay counsel fees and expenses.

Case Name: State v. Todd Krysiak

Case Number: 211-2019-CR-00350

HOUSE OF CORRECTIONS SENTENCE

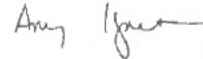
OTHER CONDITIONS

- A. The defendant is to participate meaningfully and complete any counseling, treatment and educational programs as directed by the correctional authority or Probation/Parole Officer.
- B. The defendant's _____ in New Hampshire is revoked for a period of _____ effective _____
- C. Under the direction of the Probation/Parole Officer, the defendant shall tour the _____
- D. The defendant shall perform _____ hours of community service and provide proof to _____ within _____ of today's date.
- E. The defendant is ordered to have no contact with _____ either directly or indirectly, including but not limited to contact in-person, by mail, phone, e-mail, text message, social networking sites and/or third parties.
- F. Law enforcement agencies may destroy the evidence return evidence to its rightful owner.
- G. The defendant is ordered to be of good behavior and comply with all the terms of this sentence.
- I. Other:

Pursuant to Part I, Article 11 of the NH Constitution, the defendant shall not have the right to vote in New Hampshire. The NH Supreme Court may, on notice to the AG, restore the privilege to vote

For Court Use Only

This sentence does not presently include a prohibition on possession of a firearm, but the State is entitled within 30 days to request such a term, if there is a statutory basis to do so. The defense is entitled to request a hearing if it believes such a prohibition is not warranted. The defendant has stated he will abide by any such prohibition and amendment to the sentence that may be ordered.



Honorable Amy L. Ignatius

April 22, 2022

211-2019-CR-350

Charge ID# 1630698C

THE STATE OF NEW HAMPSHIRE
INDICTMENT

BELKNAP, SS.

AUGUST TERM, 2019

At the Superior Court, holden at Laconia, within and for the County of Belknap
aforesaid, on the 8th day of August in the year of our Lord two thousand and nineteen

THE GRAND JURORS FOR THE STATE OF NEW HAMPSHIRE, upon oath, present
that

TODD KRYSIAK
[REDACTED]

of Alton, New Hampshire, in the State of New Hampshire, on or about November 8,
2016, did commit the crime of

VOTING IN MORE THAN ONE STATE PROHIBITED
(RSA 659:34-a)

in that, Todd Krysiak, knowingly checked in at the checklist in Alton, New Hampshire
and cast a New Hampshire ballot on which one or more federal or statewide offices or
statewide questions were listed and also cast a ballot in the same election year in 2016 in
Massachusetts where one or more federal or statewide offices or statewide questions were
listed.

Said acts being contrary to the form of the Statute, in such case made and provided, and
against the peace and dignity of the State.

Nicholas A. Chong Yen
Nicholas A. Chong Yen, NII Bar #268425
Assistant Attorney General

This is a true bill.

Carole D. ...

Foreperson

Name: Todd Krysiak
DOB: [REDACTED]
Address: [REDACTED] Alton, NII 03809
RSA: RSA 659:34-a
Offense level: Class B Felony
Dist/Mun Ct: N/A

Plea of Guilty
Entered April 22, 2022

Amy L. Ignatius
Honorable Amy L. Ignatius
April 22, 2022

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
SUPERIOR COURT

Belknap Superior Court
64 Court St.
Laconia NH 03246

Telephone: 1-855-212-1234
TTY/TDD Relay: (800) 735-2964
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RETURN FROM SUPERIOR COURT – HOUSE OF CORRECTIONS

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Case Number: 211-2019-CR-00350
Name: Todd Krysiak, [REDACTED] Alton NH 03809
DOB: [REDACTED]
Charging document: Indictment

Offense: Vote in More than 1 State GOC: Charge ID: 1630698C RSA: 659:34-a Date of Offense: November 08, 2016

Disposition: Guilty/Chargeable By: Plea
A finding of GUILTY/CHARGEABLE is entered.
Conviction: Felony
Sentence: see attached

April 22, 2022 Hon. Amy L. Ignatius Abigail Albee
Date Presiding Justice Clerk of Court

MITTIMUS

In accordance with this sentence, the Sheriff is ordered to deliver the defendant to the **Belknap County House of Corrections**. Said institution is required to receive the Defendant and detain him/her until the Term of Confinement has expired or s/he is otherwise discharged by due course of law.

Attest: _____
Clerk of Court

SHERIFF'S RETURN

I DELIVERED THE DEFENDANT TO THE **Belknap County House of Corrections** and gave a copy of this order to the Superintendent.

Date Sheriff

J-ONE: State Police DMV

C: Dept. of Corrections Offender Records Sheriff Office of Cost Containment
 Prosecutor Jessica A. King, ESQ; Myles Brand Matteson, ESQ Defendant
Defense Attorney David P. Bodanza, ESQ
 Sex Offender Registry Other _____ _____ Dist Div. _____

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
SUPERIOR COURT

Belknap Superior Court
64 Court St.
Laconia NH 03246

Telephone: 1-855-212-1234
TTY/TDD Relay: (800) 735-2964
http://www.courts.state.nh.us

RETURN FROM SUPERIOR COURT – HOUSE OF CORRECTIONS

Case Name: **State v. Sigmund J Boganski**

Case Number: **211-2020-CR-00509**

Name: **Sigmund J Boganski, [REDACTED]** New Hampton NH 03256

DOB: [REDACTED]

Charging document: Indictment

Offense: Vote in More than 1 State GOC: Charge ID: 1805799C RSA: 659:34-a Date of Offense: November 08, 2016

Disposition: Guilty/Chargeable By: Plea

A finding of GUILTY/CHARGEABLE is entered.

Conviction: Felony

Sentence: see attached

May 04, 2022
Date

Hon. Elizabeth M. Leonard
Presiding Justice

Abigail Albee
Clerk of Court

MITTIMUS

In accordance with this sentence, the Sheriff is ordered to deliver the defendant to the **Belknap County House of Corrections**. Said institution is required to receive the Defendant and detain him/her until the Term of Confinement has expired or s/he is otherwise discharged by due course of law.

Attest: _____
Clerk of Court

SHERIFF'S RETURN

I DELIVERED THE DEFENDANT TO THE **Belknap County House of Corrections** and gave a copy of this order to the Superintendent.

Date

Sheriff

J-ONE: State Police DMV

C: Dept. of Corrections Offender Records Sheriff Office of Cost Containment
 Prosecutor Myles Brand Matteson, ESQ Defendant Defense Attorney Timothy E. Bush, ESQ
 Sex Offender Registry Other _____ _____ Dist Div. _____

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH**
http://www.courts.state.nh.us

Court Name: Belknap Superior Court
Case Name: State of New Hampshire v. Sigmund Boganski
Case Number: 211-2020-CR-00509 Charge ID Number: _____
(if known)

HOUSE OF CORRECTIONS SENTENCE

Plea/Verdict:	
Crime: <u>NOTE IN MORE THAN ONE STATE</u>	Date of Crime:

A finding of GUILTY/TRUE is entered.

CONVICTION

This conviction is for a Felon

- A. The defendant has been convicted of Domestic Violence contrary to RSA 631:2-b or of an offense recorded as Domestic Violence. See attached Domestic Violence Sentencing Addendum.
- B. The defendant has been convicted of a misdemeanor, other than RSA 631:2-b or an offense recorded as Domestic Violence, which includes as an element of the offense, the use or attempted use of physical force or threatened use of a deadly weapon, and the defendant's relationship to the victim is:

OR The defendant is cohabiting or cohabited with victim as a _____
OR A person similarly situated to _____

CONFINEMENT

A. The defendant is sentenced to the House of Corrections for a period of 90
Pretrial confinement credit is _____ days.

B. This sentence is to be served as follows:

- Stand committed Commencing _____
- Consecutive weekends from _____ PM Friday to _____ PM Sunday beginning _____
- All of the sentence is suspended during good behavior and compliance with all terms and conditions of this order. Any suspended sentence may be imposed after hearing at the request of the State. The suspended sentence begins today and ends 2 years from today or release on charge ID number MAY 4, 2024
- _____ of the sentence is deferred for a period of _____

The Court retains jurisdiction up to and after the deferred period to impose or terminate the sentence or to suspend or further defer the sentence for an additional period of _____

Thirty (30) days prior to the expiration of the deferred period, the defendant may petition the Court to show cause why the deferred commitment should not be imposed. Failure to petition within the prescribed time will result in the immediate issuance of a warrant for the defendant's arrest.

Other: _____

C. The sentence is consecutive to case number and charge ID _____
 concurrent with case number and charge ID _____

D. The court recommends to the county correctional authority:

- Work release consistent with administrative regulations.
- Drug and alcohol treatment and counseling.
- Sexual offender program.
- _____

Case Name: State of New Hampshire v. Sigmund Boganski

Case Number: 211-2020-CR-00509

HOUSE OF CORRECTIONS SENTENCE

If required by statute or Department of Corrections policies and procedures, the defendant shall provide a sample for DNA analysis.

PROBATION

- A. The defendant is placed on probation for a period of _____ year(s), upon the usual terms of probation and any special terms of probation determined by the probation/parole officer.
Effective: Forthwith Upon release from _____
The defendant is ordered to report immediately, or immediately upon release, to the nearest Probation/Parole Field Office.
- B. Subject to the provisions of RSA 504-A:4, III, the probation/parole officer is granted the authority to impose a jail sentence of 1 to 7 days in response to a violation of a condition of probation, not to exceed a total of 30 days during the probationary period.

Violation of probation or any of the terms of this sentence may result in revocation of probation and imposition of any sentence within the legal limits for the underlying offense.

FINANCIAL OBLIGATIONS

- A. Fines and Fees:
Fine of \$ 1000, plus a statutory penalty assessment of \$ ~~0.00~~ 240 to be paid:
 Today
 By _____
 Through the Department of Corrections as directed by the Probation/Parole Officer. A 10 % service charge is assessed by DOC for the collection of fines and fees, other than supervision fees.
 \$ _____ of the fine and \$ _____ of the penalty assessment is suspended for _____ year(s).
A \$25.00 fee is assessed in each case file when a fine is paid on a date later than sentencing.
- B. Restitution:
The defendant shall pay restitution of \$ _____ to _____
 Restitution shall be paid through the Department of Corrections as directed by the Probation/Parole Officer. A 17% administrative fee is assessed for the collection of restitution.
 At the request of the defendant or the Department of Corrections, a hearing may be scheduled on the amount or method of payment of restitution.
 Restitution is not ordered because: _____
- C. Appointed Counsel: **NOTE:** Financial Obligations, Section C is NOT a term and condition of the sentence.
 The Court finds that the defendant has the ability to pay:
counsel fees and expenses in the amount of \$ _____
payable through _____ in the amount of \$ _____ per month.
 The Court finds that the defendant has no ability to pay counsel fees and expenses.

Case Name: State of New Hampshire v. Sigmund Boganski

Case Number: 2021-2020-CR-00509

HOUSE OF CORRECTIONS SENTENCE

OTHER CONDITIONS

- A. The defendant is to participate meaningfully and complete any counseling, treatment and educational programs as directed by the correctional authority or Probation/Parole Officer.
- B. The defendant's _____ in New Hampshire is revoked for a period of _____ effective _____
- C. Under the direction of the Probation/Parole Officer, the defendant shall tour the _____
- D. The defendant shall perform _____ hours of community service and provide proof to _____ within _____ of today's date.
- E. The defendant is ordered to have no contact with _____ either directly or indirectly, including but not limited to contact in-person, by mail, phone, e-mail, text message, social networking sites and/or third parties.
- F. Law enforcement agencies may destroy the evidence return evidence to its rightful owner.
- G. The defendant is ordered to be of good behavior and comply with all the terms of this sentence.
- I. Other:

Pursuant to Part I, Article 11 of the New Hampshire Constitution the defendant shall no longer have the right to vote in New Hampshire under the Constitution of this State.

For Court Use Only



Honorable Elizabeth M. Leonard

May 4, 2022

**THE STATE OF NEW HAMPSHIRE
INDICTMENT**

BELKNAP, SS.
STATEWIDE GRAND JURY
HOLDEN AT CONCORD

OCTOBER TERM, 2020

At the Superior Court, holden at Concord, convened a statewide grand jury, upon the 4th day of November, in the year of our Lord two thousand and twenty

THE GRAND JURORS FOR THE STATE OF NEW HAMPSHIRE, upon oath, present that

SIGMUND J. BOGANSKI
[REDACTED]

of New Hampton, New Hampshire, on or about November 8, 2016, at New Hampton, New Hampshire in the County of Belknap, did commit the crime of

VOTING IN MORE THAN ONE STATE, PROHIBITED
RSA 659:34-a


in that, Sigmund J. Boganski, knowingly checked in at the checklist in New Hampton, New Hampshire and cast a New Hampshire ballot on which one or more federal or statewide offices or statewide questions were listed and also cast a ballot in the same election year in 2016 in Arizona where one or more federal or statewide offices or statewide questions were listed.

Said acts being contrary to the form of the Statute, in which case made and provided, and against the peace and dignity of the State.



Nicholas A. Chong Yen, NH Bar #268425
Assistant Attorney General

This is a true bill.



Plea of Guilty
Entered May 4, 2022



Honorable Elizabeth M. Leonard

Foreperson

Name: Sigmund J. Boganski
DOB: [REDACTED]
Address: [REDACTED] New Hampton, NH 03256
RSA: RSA 659:34-a
Offense level: Class B Felony
Dist/Mun Ct: N/A

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
SUPERIOR COURT

Merrimack Superior Court
5 Court Street
Concord NH 03301

Telephone: 1-855-212-1234
TTY/TDD Relay: (800) 735-2964
<http://www.courts.state.nh.us>

RETURN FROM SUPERIOR COURT

Case Name: **State v. Michael Lewis**
Case Number: **217-2018-CR-01164**

Name: **Michael Lewis,** [REDACTED]

DOB: [REDACTED]

Charging document: Indictment

Offense: Voter Fraud - RSA 659:34, I(b)	GOC:	Charge ID: 1572142C	RSA: 659:34,II	Date of Offense: November 08, 2018
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Disposition: Dismissed/Quashed

Date: August 12, 2022

Action taken: By Judge

Andrew R. Schulman

J-ONE: State Police DMV

C: Dept. of Corrections Offender Records Sheriff Office of Cost Containment
 Prosecutor Myles Brand Matteson, ESQ Defendant Defense Attorney Aileen M. O'Connell, ESQ
 Other _____ _____ Dist Div. _____

THE STATE OF NEW HAMPSHIRE
INDICTMENT

MERRIMACK, SS.

DECEMBER TERM, 2018

At the Superior Court, holden at Concord, within and for the County of MERRIMACK
aforesaid, on the 13th day of December in the year of our Lord two thousand and eighteen

THE GRAND JURORS FOR THE STATE OF NEW HAMPSHIRE, upon oath, present that

MICHAEL L. LEWIS
[REDACTED]

of Miami, Florida, in the State of New Hampshire, on or about November 8, 2016, did commit
the crime of

WRONGFUL VOTING – NOT QUALIFIED TO VOTE
(RSA 659:34, I (c) & RSA 659:34, II)

in that, Michael L. Lewis, knowingly voted for an office or measure during the November 8,
2016, General Election in the Town of Hooksett, New Hampshire and that he was not qualified
to vote in said town as provided in RSA 654 because he was not domiciled for voting purposes in
the Town of Hooksett, New Hampshire,

Said acts being contrary to the form of the Statute, in such case made and provided, and against
the peace and dignity of the State.

Matthew T. Broadhead, NH Bar #19808
Assistant Attorney General

8-12-2022

DISMISSED WITHOUT PREJUDICE,
following finding that defendant has
not been resored to competency.

Honorable Andrew R. Schulman
August 12, 2022

This is a true bill.

Jamie Griswold

Foreperson

Dated - 12/13/18

MCSC #217 2018 CR 1164
CHG ID# 1572142C

2018 DEC 13 PM 2 12
SUPERIOR COURT

029189

Plea of Not Guilty
Entered November 3, 2020

Clerk of Court

000183

Name: Michael L. Lewis
DOB: [REDACTED]
Address: [REDACTED] Miami, FL, 33142
RSA: RSA 659:34, I (b) & RSA 659:34, II
Offense level: Class B Felony
Dist/Mun Ct: N/A

MCSC #217 2018 CR 1164
CHG ID# 1572142C