

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

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September 21, 2020

Lorraine Anderson, Town Clerk
Town of Nottingham
139 Stage Road
P.O. Box 114
Nottingham, NH 03290

Re: Town of Nottingham, Absentee Ballots (2020146026)

Dear Clerk Anderson:

On November 16, 2020, this Office was notified by the Secretary of State's Office that you called to report the discovery of three absentee ballots after the November 3, 2020 General Election, which had not been processed nor counted. In reviewing this matter, this Office concludes that these three votes would not have impacted the outcome of any of the races on the ballot in Nottingham during the 2020 General Election.

This year presented unprecedented challenges for election officials. We understand that you and your colleagues were under immense pressure to carry out Nottingham's elections in a manner that closely resembled the election experience before the public health crisis, while also balancing compliance with protective public health measures. We are grateful to your service and commitment to the Nottingham voters.

However, this situation must still be addressed, and is an opportunity to refine Nottingham's processes to ensure that this does not occur again.

In reviewing this matter, we spoke with you, former Deputy Town Clerk Teresa Bascom, and Supervisor of the Checklist Dee Decker. We understand the situation as follows:

On October 31, 2020, Nottingham election officials conducted partial processing of absentee ballots received prior to this date. Any newly registered voter's absentee ballot received after October 28, and any previously registered voter's absentee ballot received on or after October 31, was placed in a designated folder, which was contained inside a box, and was to be processed on the day of the election. This box containing these folders was secured in the town clerk's safe after business hours and was monitored by election officials at all other times.

The box was brought to the Nottingham polling place on Election Day, November 3, 2020. On Election Day, the box remained on your (the town clerk's) table, which was located beside the moderator's table. The box was monitored by election officials throughout the day.

In speaking with Chief Investigator Richard Tracy, you reported that you went through all the folders inside the box seven or eight times during Election Day. This was to ensure that all the absentee ballots and voter registration applications contained inside the box were processed. Given the number of times you thoroughly checked the box, you were uncertain how these three absentee ballots could have been missed.

The three absentee ballots in question were all submitted after October 28, 2020, the day the Supervisors finalized and approved the Election Day checklist. The three absentee ballots in question were all newly registered voters and not on the checklist approved by the Supervisors on October 28. You explained to Investigator Tracy that according to Nottingham's procedure, these three absentee ballots should have been placed in a folder inside the box. However, following the 2020 General Election, as you were going through the Election Day materials to include the box, you discovered these three absentee ballots. There is insufficient evidence to identify whether a specific person or persons made an error in failing to place these three absentee ballots in the designated folder of the box. There is similarly no evidence that a specific person or persons intended to withhold these three absentee ballots on purpose, and again, these three absentee ballots were not outcome determinative.

Based on the forgoing, the Nottingham town clerk's office must:

1. Contact the three voters whose absentee ballots were not processed nor counted, and explain the situation to them; and
2. Provide this Office within 30 days of receipt of this letter with a written remediation plan on tracking absentee ballots received prior to Election Day, and include any other measures to ensure that all properly submitted absentee ballots are processed and counted.

Please feel free to contact me if you have any questions.

Sincerely,



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cc: William M. Gardner, Secretary of State