ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL

JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

October 19, 2020

Honorable Melanie Levesque
Chair, Senate Committee on Election Law and Internal Affairs
Legislative Office Building, Room 102
107 North Main Street
Concord, NH 03301

Honorable David Cote
Chair, House Committee on Election Law
Legislative Office Building, Room 308
107 North Main Street
Concord, NH 03301

Dear Senator Levesque and Representative Cote:

Enclosed please find the Election Law Complaint Status Report submitted pursuant to RSA 7:6-c for the reporting period January 1, 2020 – June 30, 2020. Assistant Attorney General Nicholas Chong Yen, who leads the Election Law Unit, is prepared to respond to any questions you may have. He can be reached at 603-271-3650 or Nicholas.Chongyen@doj.nh.gov.

Thank you.

Sincerely,

Gordon J. MacDonald
Attorney General

Enclosure

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, 2020, to June 30, 2020

Prepared by:

Gordon J. MacDonald
Attorney General
Nicholas A. Chong Yen
Assistant Attorney General
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 one full-time attorney, Assistant Attorney General Nicholas Chong Yen, one full-time elections investigator, Chief Investigator Richard Tracy, and one full-time 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 since our last report dated February 3, 2020. This report is divided into three parts. Section I, pursuant to RSA 7:6-c, II (b), includes a summary of complaints received since October 30, 2019[1], 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 which remain open. Finally, Section III contains an index of matters that have been closed during the reporting period, 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 complaint received on this date was not included in the prior biannual report due to an error in producing the list of complaints received during the prior reporting period.

I.

SUMMARY OF COMPLAINTS RECEIVED SINCE January 1, 2020

Complaint Against	Complainant	Date of complaint	Allegations	Status	Bates No.
Nashua Teachers' Union COPE	Doris Hohensee	10/30/2019	RSA 659:44-a – Alleged Illegal Campaign Activity	Closed on 9/28/2020	000140-000141
Linda Nicklos, New London Town Clerk	Leslie Angus	1/7/2020	RSA 666:3 – Alleged Election Official Misconduct	Closed on 1/8/2020	000006-000007
Laconia City Council/Manager	Thomas Tardif	1/8/2020	RSA 666:3 – Alleged Election Official Misconduct	Closed on 9/22/2020	000136-000137
Vincent Marzello	New Hampshire State Police	1/10/2020	RSA 659:34 – Alleged Wrongful Voting	Criminal Matter Filed	
Alleged Wrongful Voting	Kathleen Landry, Town Clerk, Harts Location	1/13/2020	RSA 659:38 Alleged Wrongful Voting	Closed on 3/4/2020	000013
Town of Hudson	Elmar Uy	1/14/2020	RSA 654:12; RSA 654:7 – Alleged Election Official Misconduct	Closed 3/25/2020	000082
Milford School Board SAU 40	Joan Dargie	1/24/2020	RSA 197:6, Warrant Article	Closed 4/14/2020	000106-000109
Kim Colbert, New Boston Town Clerk	Theresa Harkins	1/27/2020	RSA 657:15 – Alleged Election Official Misconduct	Closed 3/24/2020	000081
Merrimack Valley School District	Louise Andrus	1/30/2020	RSA 659:40 Warrant Article	Closed 3/5/2020	000014-000015
East Kingston/Exeter	Several	2/8/2020	RSA 671, RSA 195, RSA 197 Alleged	Closed 3/20/2020	000025-000080

Cooperative SAU 16			Election Official Misconduct		
Alleged Wrongful Voting	Jean Lightfoot	2/11/2020	RSA 659:34, Alleged Wrongful Voting	Open	
Nashua Ward 1	Bill Christie	2/11/2020	RSA 659:4 Alleged Election Official Misconduct	Open	
Seabrook Polling Location	Stephen Comley, Sr.	2/11/2020	RSA 659:43 Alleged Election Official Misconduct	Closed 3/31/2020	000086
Gregory Carter, Town of Peterborough	Carol Lennox	2/11/2020	RSA 659:13 Alleged Election Official Misconduct	Closed 3/31/2020	000084-000085
Salem Ward 1	Paul Twomey	2/11/2020	RSA 654:12, RSA 654:1 Alleged Election Official Misconduct	Closed 4/6/2020	000090
Town of Windham	Rep. David Bates	2/11/2020	RSA 659:13, RSA 321:11 Alleged Election Official Misconduct	Closed 4/2/2020	000089
Town of Grantham	Deb Nelson	2/11/2020	RSA 654:12 Alleged Election Official Misconduct	Closed 4/17/2020	000111-000112
Ann Kuster	Adam Dawson	2/11/2020	RSA 659:43 Alleged Illegal Campaign Activity	Closed 9/22/2020	000138-000139
Alleged Wrongful Voting	JoAnne Ferruollo	2/11/2020	RSA 659:34 Alleged	Closed 4/13/2020	000104-000105

			Wrongful Voting		
Alleged Wrongful Voting	Mary Pelchat	2/11/2020	RSA 659:34 Alleged Wrongful Voting	Closed 4/29/2020	000129-000131
Manchester Ward 5	DOJ	2/11/2020	RSA 654:12 Alleged Election Official Misconduct	Closed 4/6/2020	000092
Concord Ward 8	Steven Barney	2/11/2020	RSA 654:12 Alleged Election Official Misconduct	Closed 4/8/2020	000099
Alleged Wrongful Voting	Brenda Penta	2/11/2020	RSA 659:34 Alleged Wrongful Voting	Closed 4/15/2020	000110
Linda Arsenault	Joan Hamblet	2/11/2020	RSA 659:34 Alleged Illegal Campaign Activity	Closed 4/21/2020	000115-000117
Town of Nottingham	Bill Christie	2/11/2020	RSA 659:40 Alleged Illegal Campaign Activity	Closed 3/30/2020	000083
Beth Hunter, Town of Derry	James O'Keefe	2/12/2020	RSA 659:44 – Alleged Election Official Misconduct	Closed 9/22/2020	000134-000135
Alleged Wrongful Voting	Jean Simon, Supervisor, Conway	2/19/2020	RSA 659:34 Alleged Wrongful Voting	Closed 2/25/2020	000012
Alleged Wrongful Voting	Secretary of State	2/25/2020	RSA 659:34 Alleged Wrongful Voting	Closed 4/13/2020	000103
Town of Windham	Nicole Bottai	2/27/2020	RSA 654:34 Alleged Election Official Misconduct	Open	

Town of Litchfield	Timothy Kearns	3/1/2020	RSA 664:14 Alleged Illegal Campaign Activity	Closed 4/17/2020	000113-000114
Littleton Warrant Article	Paul Lopes	3/4/2020	RSA 664:14 Alleged Illegal Campaign Activity	Closed 4/13/2020	000101-000102
Alleged Wrongful Voting	Betsy McClain	3/6/2020	RSA 659:34 Alleged Wrongful Voting	Closed 4/6/2020	000091
Strafford Education Association	Carol Johnson	3/6/2020	RSA 664:14 Alleged Illegal Campaign Activity	Closed 4/8/2020	000097-000098
Donna Cilley	Charles Gravenhorst	3/9/2020	RSA 664:14 Alleged Illegal Campaign Activity	Open	
Jessica Olson, Town of New Ipswich	Robert Romeril	3/10/2020	RSA 657:15 Alleged Election Official Misconduct	Closed 4/13/2020	000100
Bert Spaulding, Sr.	Lisa Ferrigno	3/11/2020	RSA 664:17 Alleged Illegal Campaign Activity	Closed 4/24/2020	000118-000119
Alleged Wrongful Voting	Michael Horne	3/18/2020	RSA 659:34 Alleged Wrongful Voting	Closed 4/8/2020	000095-000096
Alleged Wrongful Voting	Fred Fernald	3/20/2020	RSA 659:34 Alleged Wrongful Voting	Closed 5/20/2020	000132-000133
Alleged Wrongful Voting	Secretary of State	3/31/2020	RSA 659:34 Alleged Wrongful Voting	Open	
Alleged Wrongful Voting	Rockingham County Attorney	6/22/2020	RSA 659:34 Alleged Wrongful Voting	Closed 10/2/2020	000142

A. Number of Complaints Received Per Month

Month/ year	Number of Complaints
January 2020	8
February 2020	20
March 2020	10
April 2020	0
May 2020	0
June 2020	1
TOTAL:	39

B. Complaints Received by Type of Complaint

Type of Complaint	RSA Violations	Number of Complaints
Alleged Wrongful Voting	RSA 659:34 (Wrongful Voting); RSA 659:34-a (Voting In More Than One State); RSA 659:38 (Forgery/Removing of Ballots)	14
Alleged Illegal Campaign Activity	RSA 659:40 (voter intimidation/suppression/bribery); RSA 659:43 (distributing campaign materials at polling place); RSA 664:14 (political advertising disclosure requirements); RSA 664:17 (placement and removal of political advertising)	8
Alleged Election Official Misconduct	RSA 197:6 Warrant Article Complaint; RSA 654:12; (voter registration); RSA 654:34 (absentee change back); RSA 657:15 Absentee Ballot; RSA 659:4 (poll hours, closing polls); RSA 659:44; RSA 659:13 (voter check-in); RSA 666:3 Constitutional Voting Rights Violations; RSA 671 (School District Elections).	17
TOTAL:		39

II.

INVESTIGATIONS OPEN PRIOR TO THE

REPORTING PERIOD, WHICH REMAIN OPEN

Alleged Violation	Date Opened
Wrongful Voting RSA 659:34 – Charges Filed	6/13/18
Wrongful Voting RSA 659:34 – Charge Filed	7/18/18
Wrongful Voting RSA 659:34 – Charge Filed	1/7/19
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 15:1 Lobbyist Complaint	January 3, 2020	000001 - 000003
RSA 659:34 Wrongful Voting	January 7, 2020	000004 - 000005
RSA 654:8 Domicile Affidavit	January 8, 2020	000006 - 000007
RSA 53:1 Compatibility of Offices	January 21, 2020	000008 - 000009
RSA 659:44-a Electioneering	January 23, 2020	000010 - 000011
RSA 659:34 Wrongful Voting	February 25, 2020	000012
RSA 659:38 Missing Ballots	March 4, 2020	000013
RSA 659;40, III Voter Suppression	March 5, 2020	000014 - 000015
RSA 659:34 Wrongful Voting	March 18, 2020	000016 - 000017
RSA 666:3 Official Misconduct	March 18, 2020	000018 - 000021
RSA 659:44 Electioneering	March 19, 2020	000022 - 000024
RSA 671, 195, 197 School District Matters	March 20, 2020	000025 – 000080 (28 complainants)
RSA 657:15 Absentee Ballots	March 24, 2020	000081
RSA 654:12 Voter Registration	March 25, 2020	000082
RSA 659:40 Sign at Poll	March 30, 2020	000083
RSA 659:13 Voter Identification	March 31, 2020	000084 – 000085
RSA 659:43 Electioneering	March 31, 2020	000086
RSA 659:44-a Political Mailer	March 31, 2020	000087 – 000088
RSA 659:11 RSA 659:13 Voter Check-In	April 2, 2020	000089
RSA 658:16 Additional Polling Place Procedure	April 6, 2020	000090
RSA 659:34 Wrongful Voting	April 6, 2020	000091
RSA 658:25 RSA 659:21	April 6, 2020	000092
RSA 659:34 Wrongful Voting *Information has been redacted to protect the individual with a protective order, while still providing information to the public	April 6, 2020	000093 – 000094
RSA 659:34 Wrongful Voting	April 8, 2020	000095 – 000096
RSA 664:14 Political Advertising	April 8, 2020	000097 – 000098
RSA 654:34 Change of Party Registration	April 8, 2020	000099
RSA 657:15 Absentee Ballots	April 13, 2020	000100

RSA 664:14 Political Advertising	April 13, 2020	000101-000102
RSA 659:34 Wrongful Voting	April 13, 2020	000103
RSA 659:34 Wrongful Voting	April 13, 2020	000104-000105
RSA 40:13 Petitioned Articles	April 14, 2020	000106-000109
RSA 659:34 Wrongful Voting	April 15, 2020	000110
RSA 654:12 Voter Registration	April 17, 2020	000111-000112
RSA 664:14 Political Advertising	April 17, 2020	000113-000114
RSA 659:43 Electioneering	April 21, 2020	000115-000117
RSA 664:17 Removal of Signs	April 24, 2020	000118-000119
RSA 570-A:2 Wiretap	April 27, 2020	000120-000121
RSA 664:2 Campaign Finance	April 27, 2020	000122-000125
RSA 664:2 Campaign Finance	April 27, 2020	000126-000128
RSA 659:34 Wrongful Voting	April 29, 2020	000129-000131
RSA 359:34 Wrongful Voting	May 20, 2020	000132-000133
RSA 659:44 Electioneering	September 22, 2020	000134-000135
RSA 666:3 Election Official Misconduct	September 22, 2020	000136-000137
RSA 659:43 Electioneering	September 22, 2020	000138-000139
RSA 659:44-a Campaign Activity	September 28, 2020	000140-000141
RSA 659:34 Wrongful Voting	October 2, 2020	000142
RSA 659:34-a Wrongful Voting	October 15, 2020	000143-000144

Closure Letters, Settlement Agreements,

Cease and Desist Orders, Complaints Filed With A Court,

Or Other Official Communications

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GORDON J. MACDONALD
ATTORNEY GENERAL

JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

January 3, 2020

Hon. Timothy Josephson
State Representative
722 NH Route 118
Canaan, NH 03741-7330

Hon. Mary Beth Walz
State Representative
25 Stack Drive
Bow, NH 03304-4708

Hon. Susan Treleaven
State Representative
454 Sixth Street
Dover, NH 03820-5910

Hon. Tamara Le
State Representative
92 Walnut Avenue
North Hampton, NH 03862-2011

Hon. Latha Mangipudi
State Representative
20 Salmon Brook Drive
Nashua, NH 03062-2367

Ms. Victoria Sullivan
1056 S. Beech Street
Manchester, NH 03103

Mr. William Kuch
348 Page Road
Bow, NH 03304-4513

Ms. Linda Kenison
10 Marshall Street
Concord, NH 03301

Re: Investigation into Alleged Fraudulent Phone Calls

Dear Representatives Josephson, Walz, Treleaven, Le, Mangipudi, Ms. Sullivan, Mr. Kuch, and Ms. Kenison:

On or around April 29, 2018, this Office received multiple complaints from State Representatives who received allegedly fraudulent phone calls. Specifically, an unknown caller was promoting Marsy's Law (CACR 22) in New Hampshire and asking the call recipient to contact his or her State Representative. After thorough consideration, we conclude there has been no violation of New Hampshire's election laws.

In reviewing these complaints, we contacted representatives of Marsy's Law for New Hampshire (or "MLNH"), interviewed its lobbyists, interviewed lobbyists retained to oppose CACR22, identified the company hired by MLNH to make phone calls on its behalf – FLS

Connect, Inc. (or "FLS"), spoke to representatives of FLS, subpoenaed records from MLNH, its hired lobbyists, and FLS, subpoenaed phone records, spoke with call recipients, and reviewed the applicable statutory authority.

Through this investigation, we learned that there were two phone banks that were created in order to support CACR 22. One phone bank was coordinated by Amanda Grady-Sexton, Director of Public Affairs for the New Hampshire Coalition Against Domestic and Sexual Violence, and was comprised of volunteers. Most of the volunteers were victims of crime, who offered to make calls on behalf of MLNH. Another phone bank was organized by Marsy's Law for All (MLA), the national affiliate related to MLNH. MLA hired FLS to perform scripted calls on its behalf. There is no evidence to suggest that the parties opposing CACR 22 employed any phone banks to oppose the passage of the amendment.

FLS used a team of live agents to call constituents and identify who may or may not be in support of a candidate or measure. FLS also offered a service known as "patch calls," which connects an interested constituent with his or her State Representative. In speaking with constituents, FLS used a script generated and approved by the hiring candidate or political committee.

In this case, after reviewing the scripts approved by MLNH, we understand many of these calls were meant to: (a) identify constituents who may support CACR 22; and (b) connect a supporting constituent with the appropriate State Representative. The phone numbers that appeared on the Representative's phones were "spoofed" so as to appear that the constituent was using their own number to call his/her Representative. Our review revealed one instance where a constituent was patched through to a representative despite declining to connect.

Based on the foregoing, we conclude that FLS constitutes a vendor providing a lawful service. FLS is no different from printing companies, or companies providing mailing services, because it too is helping candidates and political committees connect with constituents. In much the same way as a candidate or political committee may use a mailing service to send messages in support of or opposition to a candidate or measure in the form of pamphlets, these calls fulfill a similar purpose.

With respect to the reporting of MLNH's expenditure in order to pay FLS, we conclude that MLNH correctly disclosed the payments through its Statement of Receipt and Expenditures.

An expenditure is the disbursement of money or thing of value for the purpose of promoting the success or defeat of a candidate or candidates or measure or measures. RSA 664:2, IX. A "measure" means any constitutional amendment or question which is submitted or intended to be submitted to a popular vote at an election. RSA 664:2, X.

"Any political committee whose receipts or expenditures exceed $500 shall file with the secretary of state an itemized statement in the form prescribed by the secretary of state, signed by its chairman and treasurer…[showing] each committee expenditure exceeding $25 with the full name and postal address of the payee or promise of payment, the date paid or obligated, and the

election for which the expenditure was made, with the specific nature and amount of each expenditure since the date of the registration." RSA 664:6.

In this case, MLNH hired FLS to call constituents and promote its objective of passing CACR 22. The payment for FLS' services was listed in MLNH's Statement of Receipts and Expenditures for the July 20, 2018 reporting period.

The hiring of FLS would not trigger a requirement for MLNH to also register and report such an expenditure as a lobbyist. RSA 15:1 identifies the lobbying registration requirement being triggered if a person, partnership, firm, or cooperation is employed for consideration to promote or oppose, directly or indirectly, any legislation pending or proposed before the general court. MLNH would not be engaged in lobbying by hiring FLS because it (MLNH) is not the party being employed for consideration. Furthermore, MLNH is more appropriately categorized as a Political Advocacy Organization. See RSA 664:2, XXII (definition of "political advocacy organization").

In this case, where a political committee engaged agents to connect interested constituents with their respective State Representative, and reported those expenditures in its report, there is no violation of our State's lobbying or election laws. At this time the matter is now closed.

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

Sincerely,

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

cc: David Vicinanzo, Nixon Peabody, LLP

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 7, 2020

Matthew Normand
City of Manchester
1 City Hall Plaza
Manchester, NH 03101

Re: [redacted] Alleged Wrongful Voting

Dear Clerk Normand:

On December 13, 2018, this Office received your complaint, alleging that [redacted] double voted during the November 6, 2018 General Election. After careful consideration, we conclude that there is insufficient evidence to support that [redacted] violated New Hampshire's election laws.

In making this determination, we reviewed the election records accompanying your complaint, looked up property records for [redacted] contacted voters who were not checked off on the Ward 4 voter checklist, and spoke with [redacted]

RSA 659:34, prohibits a voter from voting more than once for any office or measure. This provision also prohibits a voter from applying for a ballot in his or her own name after he or she has already voted once.

[redacted] purchased a residence on [redacted] in Manchester on September 4, 2018. On September 11, 2018, the day of the State Primary election, she same-day registered to vote in Ward 4.

In speaking with [redacted] she explained that she was in the process of transitioning into her new residence and said she was not actually living at [redacted] As such, she thought it best to only vote in Ward 4, where she was presently residing, during the State Primary.

After officially moving into [redacted] registered to vote in Ward 2 on November 6, 2018 – the day of the State General Election. She denied voting in Ward 4 on that day.

While this Office successfully contacted several of the voters on the Ward 4 checklist, who confirmed they did not vote during the 2018 November General Election, we were unable to contact the voter that appears beneath [redacted] As a result, we have been unable to confirm whether [redacted] voted during this election in order to rule out possible ballot clerk error.

In light of [redacted] s denial of having voted in Ward 4, the possibility of ballot clerk error, and the limited records to rebut both her denial and plausible explanations other than double voting, this Office concludes there is insufficient evidence to proceed with enforcement action.

At this time, this matter is now closed. Please feel free to contact me if you have any other questions.

Sincerely,

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

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GORDON J. MACDONALD
ATTORNEY GENERAL

JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

January 8, 2020

Linda C. Nicklos
Town of New London
375 Main Street
New London, NH 03257

Re: Voter Registration

Dear Clerk Nicklos:

On January 6, 2020, the Secretary of State's Office forwarded a complaint it received from a voter who registered to vote in New London. The voter described feeling "harassed" by your insistence that she needed to visit the Department of Motor Vehicles and fix the address on her driver's license.

While this voter ultimately was successful in submitting her application, this Office has previously received a complaint against you involving similar conduct.

RSA 654:8 requires town and city clerks to accept applications for voter registration during regular business hours, according to guidelines issued by the supervisors of the checklist for the taking of evidence of qualifications.

If an applicant presents the town clerk a valid driver's license that does not show the applicant's current address, but has alternative proof of domicile, no further exploration of the driver's license is appropriate. Furthermore, even if the applicant does not have additional documents to prove domicile, he or she may instead complete a domicile affidavit, which the town clerk must offer to the voter.

Whether by proof document or domicile affidavit, a voter applicant cannot be denied submitting an application to the town clerk simply because the address on his or her driver's license is not current. Further, it is not appropriate for a town clerk to insist that an individual take certain steps regarding her license.

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: Orville Fitch, Assistant Secretary of State

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GORDON J. MACDONALD
ATTORNEY GENERAL

JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

January 21, 2020

Thomas N. Tillotson
[redacted]
Dixville, NH 03576

Re: Election Offices in Dixville

Dear Mr. Tillotson:

We understand that Les Otten has moved to Dixville Notch and has registered to vote. We also understand that Mr. Otten has been appointed to fill the vacant Selectboard position as of January 11, 2020. Consequently, you have confirmed that Dixville Notch will have the required election officials necessary to hold the Presidential Primary Election on February 11, 2020, consistent with RSA 53:1.

Please note that all of the required election officials must be physically present at the polling place on Election Day. Additionally, as a reminder, all of the election officials cannot vote at the same time. There must be an election official that tends to the ballot box and the checklist. Finally, RSA 658:9 requires that "a guardrail be constructed and placed so that only such persons as are inside such rail can approach within 6 feet of the ballot box and of the voting booths. The arrangements shall be such that the voting booths can be reached only by passing within the guardrail." Please ensure that the area for the public or media is clearly differentiated from the voting area, where only voters marking their ballots may enter. Please also make sure that Dixville Notch is using only up-to-date forms from the Secretary of State's Office during this election.

Finally, throughout January, the Secretary of State's Office will be conducting election law trainings. We encourage you to reach out to the Secretary of State's Office regarding webinar trainings that may prove useful to Dixville Notch's election officials.

Should you have any additional questions, please feel free to contact me.

Sincerely,

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

cc: William M. Gardner, Secretary of State

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JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

January 23, 2020

Peggy Huard
[redacted]
Hudson, NH 03051

Re: Hudson SAU 81, Alleged Illegal Campaign Activity

Dear Ms. Huard:

On October 17, 2019, this Office received your complaint, alleging that the Hudson School District, SAU 81 (or "SAU 81") engaged in impermissible electioneering, contrary to RSA 659:44-a. Specifically, you alleged that the SAU 81 unlawfully electioneered by creating the "Community Engagement Coordinator" (or "Coordinator") position. After careful consideration, this Office concludes there has been no violation of New Hampshire's election laws.

In reaching this conclusion, we reviewed the documents and information accompanying your initial complaint, reviewed additional information you provided via email, contacted and reviewed a response to your complaint by SAU 81's attorney, Dianne Gorrow, read through minutes of SAU 81's meetings on July 22 and 26, 2019, reviewed the finalized job description for the Coordinator, and watched the recording of the January 6, 2020 School Board Meeting.

RSA 659:44-a prohibits public employees from electioneering while in the performance of his or her official duties. Under this statute, to "electioneer" means "to act in any way specifically designed to influence the vote of a voter on any question or office." RSA 659:44-a.

In your complaint, you identified certain responsibilities of the Coordinator that you argued constituted electioneering. However, the document you cited this information from was a draft job description. According to Attorney Gorrow, this document was not finalized until August 1, 2019. In reviewing this final version of the Coordinator's responsibilities, this Office did not observe any duties that would be designed to influence the vote of a voter on any question or office. Instead, the Coordinator's role appears to serve as a communications liaison between the public and SAU 81, ensuring factual information is shared with the community.

Moreover, a "Communications Plan" presented by the Coordinator to the Hudson School Board on November 18, 2019 further supports this understanding. In this Plan, the Coordinator outlines different channels the School District can use to share information with the community. The Coordinator also identifies the content of these communications to include: school-specific programs and events, district-wide updates from the superintendent's office, decisions and initiatives approved by the school board, information about community partnerships, and urgent and emergency communications as necessary.

The job responsibilities of the Coordinator as well as the content of the proposed communications do not constitute "electioneering" within the meaning of RSA 659:44-a. Furthermore, this Office did not observe the school board propose plans for electioneering in its January 6, 2020 meeting. Therefore, this Office concludes that the SAU 81 has not engaged in unlawful electioneering through the creation of the Coordinator position or the Coordinator's conduct.

To the extent that your complaint also cites alleged violations of appropriations statutes, this is not a matter within the enforcement authority of the Election Law Unit. If you wish to pursue that aspect of your complaint further, you will need to consult private counsel on what options may be available to you.

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

Sincerely,

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

cc: Dianne Gorrow, Hudson School District, SAU 81 Counsel

Events Note to File

[redacted] Alleged Wrongful Voting

2020141574 2/25/2020 2:44:25 PM Note to File

Case closed, allegations determined to be unfounded.

After reviewing this mattter, there was no evidence to support further enforcement action relative to the allegation of wrongful voting.

Supervisor Jean Smith was informed that the allegations was determined to be unfounded.

This matter is now closed.

Events Note to File

Harts Location Missing Ballotts | 2020141038 | 3/4/2020 2:20:29 PM | Note to File

This matter will be closed.

Through additional follow-up information provided by Town Clerk Landry and Town Moderator Schoof, we learned that the boxes of absentee ballots had been kept in an office at the Notchland Inn. It was determined that cleaning staff mistakenly threw out one of the boxes thinking it was trash.

The Secretary of State sent a replacement box of absentee ballots. On Election Day there were no reported issues involving the missing absentee ballots. There were no reported issues involving the missing absentee ballots following the election.

In the future, Clerk Landry plans on using a different delivery place for ballots to avoid mistakes in the future.

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 5, 2020

Louise Andrus
[redacted]
Salisbury, NH 03268

Re: Merrimack Valley School District, Alleged Illegal Campaign Activity

Dear Ms. Andrus:

On January 30, 2020, Deputy Secretary of State David Scanlan forwarded this Office your complaint. Your complaint alleged that the Merrimack Valley School District (or "MVSD") engaged in voter suppression prior to its Annual Meeting in March 2019. You alleged MVSD committed voter suppression by sending notices and election information to families of students in Loudon, but not to the District's remaining voters. After careful consideration, we conclude that no voter suppression occurred.

In following-up on this matter, we reviewed the documents accompanying your complaint, your emails to both this Office and the Secretary of State, and reviewed a response from MVSD's attorney – James O'Shaughnessy – to your complaint.

RSA 659:40, III prohibits persons from engaging in "voter suppression by knowingly attempting to prevent or deter another person from voting or registering to vote based on fraudulent, deceptive, misleading, or spurious grounds or information." The statute identifies prohibited acts of voter suppression:

(a) Challenging another person's right to register to vote or to vote based on information that he or she knows to be false or misleading.
(b) Attempting to induce another person to refrain from registering to vote or from voting by providing that person with information that he or she knows to be false or misleading.
(c) Attempting to induce another person to refrain from registering to vote or from voting at the proper place or time by providing information that he or she knows to be false or misleading about the date, time, place, or manner of the election.

RSA 659:40, III.

In reviewing the documents accompanying your complaint, we observed:

- A document titled "Understanding SB2" containing a flowchart comparing the current annual meeting and SB2 processes;
- An email dated February 10, 2019 from "Loudon Elementary School Notifications" regarding information on the SB2 petitioned warrant article; and
- A letter from Superintendent Mark MacLean summarizing information about SB2.

None of the documents contained any fraudulent or deceptive information that attempted to "deter another person from voting or registering to vote." Instead, the documents provide information such as when the polls open, what will be on the ballot, and how an "SB2 System" functions.

This Office also has determined that these documents were publically available to voters outside of families of students in Loudon. Understandably, MVSD would not have email addresses for the general public who do not have children enrolled in its schools. As a result, this Office learned from Attorney O'Shaughnessy that the information contained in the above-referenced documents were made available to the general public through a variety of other sources. This included posting the information on the District's website, providing hard copies during public hearings on SB2, and providing hard copies at the polls on Election Day.

Based on the forgoing, this Office concludes that MVSD did not engage in voter suppression contrary to RSA 659:40, III.

This matter is now closed. Please contact me if you have any other 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
James O'Shaughnessy, Merrimack Valley School District Counsel

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CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL

JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

March 18, 2020

SENT VIA EMAIL
Catherine Mazzola
[redacted]

Re: **CEASE AND DESIST ORDER**
Warning for violation of RSA 659:34

Dear Ms. Mazzola:

On December 13, 2018, this Office received a complaint from the Keene City Clerk, Patricia Little. The complaint alleged that on November 6, 2018 you registered to vote on Election Day despite not being a United States citizen. The complaint stated that you told election officials you had a friend in Maine who was under a "Green Card" status, but was entitled to vote except in Presidential Elections.

We learned that at some point during the registration process, you and election officials had searched online about whether a resident with a Green Card could vote. We understand that you were ultimately permitted to register, given a ballot, and allowed to vote.

The voter registration form you completed on November 6, 2018 clearly shows that you marked "No" next to the question asking if you are a United States citizen. Additionally, it appears you also wrote below this question, "has a green card." Although you answered this question honestly, the registration form provides clear notice that you were not eligible to vote. You signed an affidavit and acknowledgment on the registration form which stated:

> I understand that to vote in this ward/town, I must be 18 years of age, I must be a United States citizen, and I must be domiciled in this ward/town.
>
> [...]
>
> I acknowledge that I have read and understand the above qualifications and do hereby swear, under the penalties for voting fraud set forth below, that I am qualified to vote in the above stated city/town, and, if registering on election day, that I have not voted and will not vote at any other polling place this election.

(emphasis added). Additionally, the affidavit that you signed outlined the penalty for wrongful voting.

We also received and reviewed your prior voter registration card for Keene, which you signed on November 5, 2002. The card indicates that your place of birth is Angeers, France.

On January 24, 2020, you spoke with Chief Investigator Richard Tracy over the phone. After Investigator Tracy explained the purpose of his call, you immediately stated that you only vote in local and not federal elections since you have a Green Card.

It is clear that the election officials in the City of Keene should not have accepted your registration in light of your verbal representations as well as your responses on the registration form. Due in part to these errors by election officials, we have determined that the evidence in your circumstance did not rise to the level of criminal misconduct.

However, you have now been informed by Investigator Tracy that since you are not a United States citizen, you are not eligible to vote in any local, state, or federal election. We have also notified the City of Keene that you are not a United States citizen and advised that you should be removed from the voter checklist unless and until you obtain citizenship.

We have concluded that you were not a citizen when you voted during the November 2018 election, and therefore were not qualified to vote. Be advised that your actions could have constituted a violation of RSA 659:34, I(e) which prohibits "vot[ing] for an office or measure at an election if such person is not qualified to vote as provided in RSA 654." A violation of this law constitutes a class B felony if the person acts knowingly or purposely. RSA 654:34, II.

Pursuant to Part I, Article 11 of the New Hampshire Constitution, RSA 659:34, and RSA 654:1, and based upon the investigation conducted by our office, you are hereby ordered to **Cease and Desist from voting in New Hampshire unless and until you establish United States citizenship in addition to satisfying the other qualifications to vote in this State**. Failure to comply with this Cease and Desist Order may result in this office pursuing criminal prosecution or civil penalties.

Sincerely,

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

cc: Patricia A. Little, City of Keene
The Honorable William M. Gardner, Secretary of State

ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

33 CAPITOL STREET
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GORDON J. MACDONALD
ATTORNEY GENERAL

JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

March 18, 2020

Town of Windham Supervisors of the Checklist
Windham Town Clerk
3 N. Lowell Road
Windham, NH 03087

Nicole Bottai
Windham Town Clerk
3 N. Lowell Road
Windham, NH 03087

Re: Town of Windham, Alleged Election Official Misconduct

Dear Clerk Bottai and Supervisors:

This Office has been the recipient of numerous email exchanges, letters, and complaints between the Windham Town Clerk's Office, Windham Town Counsel, and the Windham Supervisors of the Checklist. These communications stem from a disagreement between the Town Clerk's Office and the Supervisors, specifically, guidelines issued by the Supervisors to the Town Clerk instructing the Clerk's Office to take copies of proof documents provided by voter registration applicants. This Office concludes that while the Supervisors may issue guidelines for the taking of proof of qualifications, there is no statutory requirement that Clerks make copies of those records. We further conclude that Supervisors may lawfully rely on the representations of Clerks regarding the proof documents they observed from the applicant.

On September 25, 2019, this Office was forwarded a complaint by the ElectioNet Help Desk, from Windham Town Clerk Nicole Bottai. The complaint reported that the Windham Supervisors were requesting the Town Clerk's Office make copies of proof documents presented by voters wishing to register to vote. However, Clerk Bottai alleged that although copies of the proof documents had been provided at the Supervisors' request, voter applicants were still being rejected.

On September 27, 2019, this Office responded to Clerk Bottai, indicating that if she possessed specific information that the Supervisors were unlawfully rejecting voter applications,

she should report those instances. At such time, this Office would review the reported information to determine if additional investigation was warranted.

Clerk Bottai replied on that date, explaining that it seemed the Supervisors had changed their policy regarding proof documents. She said that this change took place 3 years ago, and the change was contrary to elections training she received. That training emphasized that no copies of any voter's birth certificate, passport, or driver's license be taken.

On November 1, 2019, David Bates, one of the Windham Supervisors, emailed a complaint to both this Office and the Secretary of State's Office. In his complaint, Mr. Bates reported that the Clerk's Office sent a letter to the Supervisors, notifying them that the Town Clerk would no longer take photocopies of a voter applicant's proof documents. He stated for the last 5 years the Clerk's Office has been complying with the guidelines issued by the Supervisors according to RSA 654:8. Mr. Bates argued the Clerk's refusal to continue complying with these guidelines represented a violation of RSA 666:3.

At this time, it was this Office's understanding that the disagreement between the Town Clerk's Office and the Supervisors could be remedied with clear, written guidelines by the Supervisors.

On November 12, 2019, this Office emailed Mr. Bates and suggested that it would be helpful for all parties if the Supervisors issued written, dated instructions to the Town Clerk's Office, specifically, instructions regarding the taking of evidence of qualifications presented by voter applicants. The Supervisors emailed those guidelines to Clerk Bottai that same day.

On November 27, 2019, Clerk Bottai responded to the Supervisors' email, indicating she had consulted with Town Counsel, Attorney Bernard Campbell about the matter. Based on guidance received from Attorney Campbell, Clerk Bottai informed the Supervisors that her office would continue accepting voter registration applications without taking copies of supporting documents.

RSA 654:8, I authorizes the Supervisors to issue guidelines to the Town Clerk for the taking of evidence of qualifications presented by applicants. In the instant case, we conclude the guidelines issued by the Supervisors are valid and fall within their statutory authority. We note that while these guidelines may be valid, the Supervisors must ensure they comply with other state laws to the extent applicable.

For example, with respect to driver's licenses, RSA 263:12, VII states that it is a misdemeanor to "[p]hotograph, photostat, duplicate, or in any manner reproduce any license to drive a motor vehicle or facsimile thereof in such a manner that it could be mistaken for a valid license, or have in his possession any such photograph, photostat, duplicate, reproduction or facsimile unless specifically authorized by the director." As such, it would appear that a photocopy of a driver's license is permitted provided:

1. The copy cannot be mistaken for a valid license; and
2. The copier has been authorized by the Department of Safety to copy the document.

If the Supervisors move forward with their guidelines, they will need to work with Windham's Town Counsel to obtain authority from the Department of Safety to copy driver's licenses.

The Supervisors must also prepare for voter applicants who only possess electronic copies of their proof documents. In such cases, applicants cannot be denied approval if they only produce electronic copies, or are unable to copy the image on the electronic device they use to present these records.

Although we recognize the authority of Supervisors to issue guidelines, we also recognize it is lawful to rely on the representations of town/city clerks and the proofs of qualifications they observe.

In support of this conclusion, this Office reviewed the legislative history for RSA 654:8. The Legislature through SB321 in 1992 sought to allow "supervisors of the checklist and town and city clerks to request specific information from persons who are registering to vote in order to determine whether the applicant is qualified to vote." See Enclosed Enrolled Bill Amendment. (emphasis added).

The objective of this bill, and RSA 654:8, was to make voter registration as easy as possible. See Enclosed Senate Journal, February 4, 1992, (Sen. Bass: It is "very substantial to citizens rights to make registration as easy as possible"). The bill still recognized that the Supervisors would need to review the applications, and ultimately decide if the applicant met the qualifications to be added to the checklist.

Additionally, RSA 654:11 creates a presumption in favor of an applicant's qualifications to vote. This provision grants the Supervisors the authority to reject an application only if it is established that it is more likely than not that the applicant is not qualified. See also New Hampshire Election Procedure Manual: 2018-2019, Pgs. 118-119.

A decision for further inquiry into a voter's qualifications or to send a voter a 30-day removal letter under RSA 654:44 must be made by a majority of the Supervisors and in compliance with applicable Right-to-Know law. A copy of the Right-to-Know memorandum can be found on the Attorney General's website: https://www.doj.nh.gov/civil/publications.htm. An update to this memo is being prepared and we encourage readers to check back periodically for the latest release.

In light of the forgoing legislative history, and with the presumption established by statute that applicants are qualified to vote, this Office concludes that the Supervisors may lawfully rely upon the Clerk's representation that he/she observed an applicant's proofs of qualification. If there is reason to believe that a Town Clerk is not fulfilling his or her duty relating to elections, the facts supporting those specific allegations should be reported to the Attorney General's Office for investigation.

Sincerely,

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

cc: William M. Gardner, Secretary of State
Bernard Campbell, Town of Windham Town Counsel

ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

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GORDON J. MACDONALD
ATTORNEY GENERAL

JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

March 19, 2020

Robert G. Eaton
[redacted]
Rye, NH 03870

Re: Donna DeCotis, Alleged Illegal Campaign Activity

Dear Attorney Eaton:

On December 17, 2019, we received your complaint, alleging that Rye Town Clerk/Tax Collector Donna DeCotis violated RSA 659:44. Specifically, you alleged that Clerk DeCotis engaged in impermissible electioneering by expressing her support for a candidate for Congress in her capacity as Town Clerk through a local publication. After careful consideration, this Office concludes that there has been no violation of New Hampshire's election laws.

RSA 659:44, titled "Electioneering at the Polling Place," provides that:

> No 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.

The term "election officer" is defined by RSA 652:14 as "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."

RSA 659:44 undoubtedly places restrictions on speech. Under the State Constitution the right of free speech may be subject to reasonable time, place and manner regulations that are content-neutral, narrowly serve a significant governmental interest, and allow other opportunities for expression. State v. Bailey, 166 N.H. 537, 542 (2014). A content-based restriction must be narrowly tailored to serve a compelling government interest. Id. at 543. A content-neutral restriction must satisfy a slightly less stringent test -- it must be narrowly tailored to serve a significant government interest and must leave open ample alternative channels for communication. Id.

Under the United States Constitution, the First Amendment prohibits the enactment of laws abridging the freedom of speech. Reed v. Town of Gilbert, 135 S. Ct. 2218, 2226 (2015) citing U.S. Const., Amend. I. Under that Clause, a state government, has no power to restrict expression because of its message, its ideas, its subject matter, or its content." Id. Content-based laws, those that target speech based on its communicative content, are presumptively unconstitutional and may be justified only if the government proves that they are narrowly tailored to serve compelling state interests. Id.

A law is content based if its application to particular speech is based the topic discussed or the idea or message expressed. Reed at 2227. This analysis requires consideration as to whether such a law "on its face" draws distinctions based on the message a speaker conveys. Id. The statute in question prohibits a specific class of voters from engaging in political speech. See RSA 659:44 (prohibiting election officers from engage in any way that can influence the vote of a voter). Thus, in order to avoid constitutional challenges the statute must be applied narrowly to serve a compelling state interest. See Reed at 2226. In considering the application of the statute we are given guidance by the U.S. Supreme Court decision in Burson v. Freeman, 504 U.S. 191 (1992).

In Burson, the Respondent, a candidate for office, brought suit seeking declaratory and injunctive relief from the provisions of two Tennessee statutes prohibiting the solicitation of votes and the display or distribution of campaign materials within 100-feet of the entrance to a polling place on election day, violated U.S. Const. amend. I and IV. The basis of the Respondent's challenge was that the statutes limited her ability to communicate with voters. Holding that some restricted zone around the voting area is necessary to achieve the State's compelling interest in protecting the right to vote, the Court found the boundary restriction was constitutional in that the statutory provision constituted a compromise between two competing fundamental interests (the exercise of free speech and the right to cast a ballot in an election free from the taint of intimidation and fraud). Id. at 208-10. The Court made further note that at some measurable distance from the polls, governmental regulation of vote solicitation could effectively become an impermissible burden. Id. at 210.

In light of the Supreme Court's decision in Reed, we believe it prudent to narrow the scope of our application of RSA 659:44. We do not believe that we can enforce the statute in a manner that prohibits an election officer from electioneering any time she identifies herself by her office, as we did in the 2009 letter accompanying your complaint. Under the Court's decision in Burson, it is our opinion that applying RSA 659:44 in a manner that prohibits a town clerk from electioneering, while acting in his or her official capacity as an election officer would withstand a constitutional challenge. As an example, the town clerk is required to be present at the polling place during State Primary and General Elections, see N.H. Const. Pt. II, Art. 32., and cannot electioneer while performing her Election Day responsibilities.

While acting in this capacity, a town clerk is acting in her capacity as an election officer, whereas while handling the day-to-day prudential affairs of the town she is not. Simply put a town clerk or other election officer working at the polling place on Election Day is prohibited

from electioneering. Based on the entirety of the statute, "Electioneering at the Polling Place," it would appear this view is consistent the legislative intent. See RSA 659:44.

Based on the forgoing we do not believe we could proceed with an enforcement action in this matter against Clerk DeCotis.

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 20, 2020

Karen Hughes
[redacted]
East Kingston, NH 03827

Re: SAU #16, Alleged Election Official Misconduct

Dear Ms. Hughes:

From February 10 through March 9, 2020 this Office received multiple complaints alleging that SAU #16, specifically East Kingston School District (or "the District") and the Exeter Region Cooperative School District (or "the Cooperative"), violated the complainants' Constitutional rights. The complaints allege these Constitutional violations took place when the District and the Cooperative scheduled and held their respective deliberative meetings at the same time in two different places. The complainants argue that as residents who fall within both the District and Cooperative areas, they have an interest in attending and participating in both deliberative meetings. After careful review, this Office concludes there has been no violation of New Hampshire's election laws.

In following-up on this matter, this Office reviewed the information accompanying each complaint, spoke with the New Hampshire School Board Association, and reviewed a response from SAU #16's counsel, Attorney Barbara Loughman.

RSA 197:5 states that "[s]chool district meetings shall be warned by the school board, or, in cases authorized by law, by a justice of superior court, by a warrant addressed to the voters of the district, stating the time and place of the meeting and the subject matter of the business to be acted upon."

RSA 40:13 states that the annual meeting for the transaction of business take place at a time prescribed by the local political subdivision's governing body.

These statutes collectively authorize a school board to choose the date for their respective deliberative session of the annual school district meeting. RSA 40:13 only provides a period of seven days during which the five districts that make up SAU #16 may schedule a deliberative meeting. Based on the information this Office reviewed, the District and the Cooperative followed the statutory scheduling requirements in this case.

We understand from the School Board Association that the best practice is to have member districts of an SAU hold meetings on different dates. However, while this may be best practice, there is no statute that requires this action. Furthermore, there is no evidence, nor do the complainants allege, that the deliberative meetings for either the District or the Cooperative were improperly warned.

In light of the forgoing, this Office concludes no violation of New Hampshire's election laws has occurred. Should the complainants wish to pursue this matter further, they are encouraged to seek the guidance of private counsel. Alternatively, the complainants may contact their State Representative or Senator to address their concerns through legislative change.

This matter is now closed. Please feel free to contact me with any questions.

Sincerely,

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

cc: Barbara Loughman, SAU #16 Counsel
Will Phillips, School Board Association

ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

33 CAPITOL STREET
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GORDON J. MACDONALD
ATTORNEY GENERAL

JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

March 20, 2020

Gretchen Graziano
[redacted]
East Kingston, NH 03827

Re: SAU #16, Alleged Election Official Misconduct

Dear Ms. Graziano:

From February 10 through March 9, 2020 this Office received multiple complaints alleging that SAU #16, specifically East Kingston School District (or "the District") and the Exeter Region Cooperative School District (or "the Cooperative"), violated the complainants' Constitutional rights. The complaints allege these Constitutional violations took place when the District and the Cooperative scheduled and held their respective deliberative meetings at the same time in two different places. The complainants argue that as residents who fall within both the District and Cooperative areas, they have an interest in attending and participating in both deliberative meetings. After careful review, this Office concludes there has been no violation of New Hampshire's election laws.

In following-up on this matter, this Office reviewed the information accompanying each complaint, spoke with the New Hampshire School Board Association, and reviewed a response from SAU #16's counsel, Attorney Barbara Loughman.

RSA 197:5 states that "[s]chool district meetings shall be warned by the school board, or, in cases authorized by law, by a justice of superior court, by a warrant addressed to the voters of the district, stating the time and place of the meeting and the subject matter of the business to be acted upon."

RSA 40:13 states that the annual meeting for the transaction of business take place at a time prescribed by the local political subdivision's governing body.

These statutes collectively authorize a school board to choose the date for their respective deliberative session of the annual school district meeting. RSA 40:13 only provides a period of seven days during which the five districts that make up SAU #16 may schedule a deliberative meeting. Based on the information this Office reviewed, the District and the Cooperative followed the statutory scheduling requirements in this case.

We understand from the School Board Association that the best practice is to have member districts of an SAU hold meetings on different dates. However, while this may be best practice, there is no statute that requires this action. Furthermore, there is no evidence, nor do the complainants allege, that the deliberative meetings for either the District or the Cooperative were improperly warned.

In light of the forgoing, this Office concludes no violation of New Hampshire's election laws has occurred. Should the complainants wish to pursue this matter further, they are encouraged to seek the guidance of private counsel. Alternatively, the complainants may contact their State Representative or Senator to address their concerns through legislative change.

This matter is now closed. Please feel free to contact me with any questions.

Sincerely,

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

cc: Barbara Loughman, SAU #16 Counsel
Will Phillips, School Board Association

ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

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CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL

JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

March 20, 2020

Margaret Caulk
[redacted]
East Kingston, NH 03827

Re: SAU #16, Alleged Election Official Misconduct

Dear Ms. Caulk:

From February 10 through March 9, 2020 this Office received multiple complaints alleging that SAU #16, specifically East Kingston School District (or "the District") and the Exeter Region Cooperative School District (or "the Cooperative"), violated the complainants' Constitutional rights. The complaints allege these Constitutional violations took place when the District and the Cooperative scheduled and held their respective deliberative meetings at the same time in two different places. The complainants argue that as residents who fall within both the District and Cooperative areas, they have an interest in attending and participating in both deliberative meetings. After careful review, this Office concludes there has been no violation of New Hampshire's election laws.

In following-up on this matter, this Office reviewed the information accompanying each complaint, spoke with the New Hampshire School Board Association, and reviewed a response from SAU #16's counsel, Attorney Barbara Loughman.

RSA 197:5 states that "[s]chool district meetings shall be warned by the school board, or, in cases authorized by law, by a justice of superior court, by a warrant addressed to the voters of the district, stating the time and place of the meeting and the subject matter of the business to be acted upon."

RSA 40:13 states that the annual meeting for the transaction of business take place at a time prescribed by the local political subdivision's governing body.

These statutes collectively authorize a school board to choose the date for their respective deliberative session of the annual school district meeting. RSA 40:13 only provides a period of seven days during which the five districts that make up SAU #16 may schedule a deliberative meeting. Based on the information this Office reviewed, the District and the Cooperative followed the statutory scheduling requirements in this case.

We understand from the School Board Association that the best practice is to have member districts of an SAU hold meetings on different dates. However, while this may be best practice, there is no statute that requires this action. Furthermore, there is no evidence, nor do the complainants allege, that the deliberative meetings for either the District or the Cooperative were improperly warned.

In light of the forgoing, this Office concludes no violation of New Hampshire's election laws has occurred. Should the complainants wish to pursue this matter further, they are encouraged to seek the guidance of private counsel. Alternatively, the complainants may contact their State Representative or Senator to address their concerns through legislative change.

This matter is now closed. Please feel free to contact me with any questions.

Sincerely,

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

cc: Barbara Loughman, SAU #16 Counsel
Will Phillips, School Board Association

ATTORNEY GENERAL
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GORDON J. MACDONALD
ATTORNEY GENERAL

JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

March 20, 2020

Edna O'Connell
[redacted]
East Kingston, NH 03827

Re: SAU #16, Alleged Election Official Misconduct

Dear Ms. O'Connell:

From February 10 through March 9, 2020 this Office received multiple complaints alleging that SAU #16, specifically East Kingston School District (or "the District") and the Exeter Region Cooperative School District (or "the Cooperative"), violated the complainants' Constitutional rights. The complaints allege these Constitutional violations took place when the District and the Cooperative scheduled and held their respective deliberative meetings at the same time in two different places. The complainants argue that as residents who fall within both the District and Cooperative areas, they have an interest in attending and participating in both deliberative meetings. After careful review, this Office concludes there has been no violation of New Hampshire's election laws.

In following-up on this matter, this Office reviewed the information accompanying each complaint, spoke with the New Hampshire School Board Association, and reviewed a response from SAU #16's counsel, Attorney Barbara Loughman.

RSA 197:5 states that "[s]chool district meetings shall be warned by the school board, or, in cases authorized by law, by a justice of superior court, by a warrant addressed to the voters of the district, stating the time and place of the meeting and the subject matter of the business to be acted upon."

RSA 40:13 states that the annual meeting for the transaction of business take place at a time prescribed by the local political subdivision's governing body.

These statutes collectively authorize a school board to choose the date for their respective deliberative session of the annual school district meeting. RSA 40:13 only provides a period of seven days during which the five districts that make up SAU #16 may schedule a deliberative meeting. Based on the information this Office reviewed, the District and the Cooperative followed the statutory scheduling requirements in this case.

We understand from the School Board Association that the best practice is to have member districts of an SAU hold meetings on different dates. However, while this may be best practice, there is no statute that requires this action. Furthermore, there is no evidence, nor do the complainants allege, that the deliberative meetings for either the District or the Cooperative were improperly warned.

In light of the forgoing, this Office concludes no violation of New Hampshire's election laws has occurred. Should the complainants wish to pursue this matter further, they are encouraged to seek the guidance of private counsel. Alternatively, the complainants may contact their State Representative or Senator to address their concerns through legislative change.

This matter is now closed. Please feel free to contact me with any questions.

Sincerely,

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

cc: Barbara Loughman, SAU #16 Counsel
Will Phillips, School Board Association

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33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL

JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

March 20, 2020

Sharon Carleton
[redacted]
East Kingston, NH 03827

Re: SAU #16, Alleged Election Official Misconduct

Dear Ms. Carleton:

From February 10 through March 9, 2020 this Office received multiple complaints alleging that SAU #16, specifically East Kingston School District (or "the District") and the Exeter Region Cooperative School District (or "the Cooperative"), violated the complainants' Constitutional rights. The complaints allege these Constitutional violations took place when the District and the Cooperative scheduled and held their respective deliberative meetings at the same time in two different places. The complainants argue that as residents who fall within both the District and Cooperative areas, they have an interest in attending and participating in both deliberative meetings. After careful review, this Office concludes there has been no violation of New Hampshire's election laws.

In following-up on this matter, this Office reviewed the information accompanying each complaint, spoke with the New Hampshire School Board Association, and reviewed a response from SAU #16's counsel, Attorney Barbara Loughman.

RSA 197:5 states that "[s]chool district meetings shall be warned by the school board, or, in cases authorized by law, by a justice of superior court, by a warrant addressed to the voters of the district, stating the time and place of the meeting and the subject matter of the business to be acted upon."

RSA 40:13 states that the annual meeting for the transaction of business take place at a time prescribed by the local political subdivision's governing body.

These statutes collectively authorize a school board to choose the date for their respective deliberative session of the annual school district meeting. RSA 40:13 only provides a period of seven days during which the five districts that make up SAU #16 may schedule a deliberative meeting. Based on the information this Office reviewed, the District and the Cooperative followed the statutory scheduling requirements in this case.

We understand from the School Board Association that the best practice is to have member districts of an SAU hold meetings on different dates. However, while this may be best practice, there is no statute that requires this action. Furthermore, there is no evidence, nor do the complainants allege, that the deliberative meetings for either the District or the Cooperative were improperly warned.

In light of the forgoing, this Office concludes no violation of New Hampshire's election laws has occurred. Should the complainants wish to pursue this matter further, they are encouraged to seek the guidance of private counsel. Alternatively, the complainants may contact their State Representative or Senator to address their concerns through legislative change.

This matter is now closed. Please feel free to contact me with any questions.

Sincerely,

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

cc: Barbara Loughman, SAU #16 Counsel
Will Phillips, School Board Association

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 20, 2020

John Vedrani
[redacted]
East Kingston, NH 03827

Re: SAU #16, Alleged Election Official Misconduct

Dear Mr. Vedrani:

From February 10 through March 9, 2020 this Office received multiple complaints alleging that SAU #16, specifically East Kingston School District (or "the District") and the Exeter Region Cooperative School District (or "the Cooperative"), violated the complainants' Constitutional rights. The complaints allege these Constitutional violations took place when the District and the Cooperative scheduled and held their respective deliberative meetings at the same time in two different places. The complainants argue that as residents who fall within both the District and Cooperative areas, they have an interest in attending and participating in both deliberative meetings. After careful review, this Office concludes there has been no violation of New Hampshire's election laws.

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Sincerely,

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

cc: Barbara Loughman, SAU #16 Counsel
Will Phillips, School Board Association

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 20, 2020

Daniel M. Thornton
[redacted]
East Kingston, NH 03827

Re: SAU #16, Alleged Election Official Misconduct

Dear Mr. Thornton:

From February 10 through March 9, 2020 this Office received multiple complaints alleging that SAU #16, specifically East Kingston School District (or "the District") and the Exeter Region Cooperative School District (or "the Cooperative"), violated the complainants' Constitutional rights. The complaints allege these Constitutional violations took place when the District and the Cooperative scheduled and held their respective deliberative meetings at the same time in two different places. The complainants argue that as residents who fall within both the District and Cooperative areas, they have an interest in attending and participating in both deliberative meetings. After careful review, this Office concludes there has been no violation of New Hampshire's election laws.

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

cc: Barbara Loughman, SAU #16 Counsel
Will Phillips, School Board Association

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 20, 2020

Denise Stevenson
[redacted]
East Kingston, NH 03827

Re: SAU #16, Alleged Election Official Misconduct

Dear Ms. Stevenson:

From February 10 through March 9, 2020 this Office received multiple complaints alleging that SAU #16, specifically East Kingston School District (or "the District") and the Exeter Region Cooperative School District (or "the Cooperative"), violated the complainants' Constitutional rights. The complaints allege these Constitutional violations took place when the District and the Cooperative scheduled and held their respective deliberative meetings at the same time in two different places. The complainants argue that as residents who fall within both the District and Cooperative areas, they have an interest in attending and participating in both deliberative meetings. After careful review, this Office concludes there has been no violation of New Hampshire's election laws.

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Sincerely,

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

cc: Barbara Loughman, SAU #16 Counsel
Will Phillips, School Board Association

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 20, 2020

Barbara George
[redacted]
East Kingston, NH 03827

Re: SAU #16, Alleged Election Official Misconduct

Dear Ms. George:

From February 10 through March 9, 2020 this Office received multiple complaints alleging that SAU #16, specifically East Kingston School District (or "the District") and the Exeter Region Cooperative School District (or "the Cooperative"), violated the complainants' Constitutional rights. The complaints allege these Constitutional violations took place when the District and the Cooperative scheduled and held their respective deliberative meetings at the same time in two different places. The complainants argue that as residents who fall within both the District and Cooperative areas, they have an interest in attending and participating in both deliberative meetings. After careful review, this Office concludes there has been no violation of New Hampshire's election laws.

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This matter is now closed. Please feel free to contact me with any questions.

Sincerely,

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

cc: Barbara Loughman, SAU #16 Counsel
Will Phillips, School Board Association

ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

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CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL

JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

March 20, 2020

Mark L. Cohen
[redacted]
East Kingston, NH 03827

Re: SAU #16, Alleged Election Official Misconduct

Dear Mr. Cohen:

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This matter is now closed. Please feel free to contact me with any questions.

Sincerely,

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

cc: Barbara Loughman, SAU #16 Counsel
Will Phillips, School Board Association

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 20, 2020

Joan Scialdone
[redacted]
East Kingston, NH 03827

Re: SAU #16, Alleged Election Official Misconduct

Dear Ms. Scialdone:

From February 10 through March 9, 2020 this Office received multiple complaints alleging that SAU #16, specifically East Kingston School District (or "the District") and the Exeter Region Cooperative School District (or "the Cooperative"), violated the complainants' Constitutional rights. The complaints allege these Constitutional violations took place when the District and the Cooperative scheduled and held their respective deliberative meetings at the same time in two different places. The complainants argue that as residents who fall within both the District and Cooperative areas, they have an interest in attending and participating in both deliberative meetings. After careful review, this Office concludes there has been no violation of New Hampshire's election laws.

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Sincerely,

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

cc: Barbara Loughman, SAU #16 Counsel
Will Phillips, School Board Association

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 20, 2020

Linda Scammon
[redacted]
East Kingston, NH 03827

Re: SAU #16, Alleged Election Official Misconduct

Dear Ms. Scammon:

From February 10 through March 9, 2020 this Office received multiple complaints alleging that SAU #16, specifically East Kingston School District (or "the District") and the Exeter Region Cooperative School District (or "the Cooperative"), violated the complainants' Constitutional rights. The complaints allege these Constitutional violations took place when the District and the Cooperative scheduled and held their respective deliberative meetings at the same time in two different places. The complainants argue that as residents who fall within both the District and Cooperative areas, they have an interest in attending and participating in both deliberative meetings. After careful review, this Office concludes there has been no violation of New Hampshire's election laws.

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

cc: Barbara Loughman, SAU #16 Counsel
Will Phillips, School Board Association

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 20, 2020

Christine S. Humphrey
[redacted]
East Kingston, NH 03827

Re: SAU #16, Alleged Election Official Misconduct

Dear Ms. Humphrey:

From February 10 through March 9, 2020 this Office received multiple complaints alleging that SAU #16, specifically East Kingston School District (or "the District") and the Exeter Region Cooperative School District (or "the Cooperative"), violated the complainants' Constitutional rights. The complaints allege these Constitutional violations took place when the District and the Cooperative scheduled and held their respective deliberative meetings at the same time in two different places. The complainants argue that as residents who fall within both the District and Cooperative areas, they have an interest in attending and participating in both deliberative meetings. After careful review, this Office concludes there has been no violation of New Hampshire's election laws.

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

cc: Barbara Loughman, SAU #16 Counsel
Will Phillips, School Board Association

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 20, 2020

Nancy E. Parker
[redacted]
East Kingston, NH 03827

Re: SAU #16, Alleged Election Official Misconduct

Dear Ms. Parker:

From February 10 through March 9, 2020 this Office received multiple complaints alleging that SAU #16, specifically East Kingston School District (or "the District") and the Exeter Region Cooperative School District (or "the Cooperative"), violated the complainants' Constitutional rights. The complaints allege these Constitutional violations took place when the District and the Cooperative scheduled and held their respective deliberative meetings at the same time in two different places. The complainants argue that as residents who fall within both the District and Cooperative areas, they have an interest in attending and participating in both deliberative meetings. After careful review, this Office concludes there has been no violation of New Hampshire's election laws.

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

cc: Barbara Loughman, SAU #16 Counsel
Will Phillips, School Board Association

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 20, 2020

Harold Lang
[redacted]
East Kingston, NH 03827

Re: SAU #16, Alleged Election Official Misconduct

Dear Mr. Lang:

From February 10 through March 9, 2020 this Office received multiple complaints alleging that SAU #16, specifically East Kingston School District (or "the District") and the Exeter Region Cooperative School District (or "the Cooperative"), violated the complainants' Constitutional rights. The complaints allege these Constitutional violations took place when the District and the Cooperative scheduled and held their respective deliberative meetings at the same time in two different places. The complainants argue that as residents who fall within both the District and Cooperative areas, they have an interest in attending and participating in both deliberative meetings. After careful review, this Office concludes there has been no violation of New Hampshire's election laws.

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Nicholas A. Chong Yen
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cc: Barbara Loughman, SAU #16 Counsel
Will Phillips, School Board Association

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 20, 2020

Roberta Brady
[redacted]
East Kingston, NH 03827

Re: SAU #16, Alleged Election Official Misconduct

Dear Ms. Brady:

From February 10 through March 9, 2020 this Office received multiple complaints alleging that SAU #16, specifically East Kingston School District (or "the District") and the Exeter Region Cooperative School District (or "the Cooperative"), violated the complainants' Constitutional rights. The complaints allege these Constitutional violations took place when the District and the Cooperative scheduled and held their respective deliberative meetings at the same time in two different places. The complainants argue that as residents who fall within both the District and Cooperative areas, they have an interest in attending and participating in both deliberative meetings. After careful review, this Office concludes there has been no violation of New Hampshire's election laws.

In following-up on this matter, this Office reviewed the information accompanying each complaint, spoke with the New Hampshire School Board Association, and reviewed a response from SAU #16's counsel, Attorney Barbara Loughman.

RSA 197:5 states that "[s]chool district meetings shall be warned by the school board, or, in cases authorized by law, by a justice of superior court, by a warrant addressed to the voters of the district, stating the time and place of the meeting and the subject matter of the business to be acted upon."

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These statutes collectively authorize a school board to choose the date for their respective deliberative session of the annual school district meeting. RSA 40:13 only provides a period of seven days during which the five districts that make up SAU #16 may schedule a deliberative meeting. Based on the information this Office reviewed, the District and the Cooperative followed the statutory scheduling requirements in this case.

We understand from the School Board Association that the best practice is to have member districts of an SAU hold meetings on different dates. However, while this may be best practice, there is no statute that requires this action. Furthermore, there is no evidence, nor do the complainants allege, that the deliberative meetings for either the District or the Cooperative were improperly warned.

In light of the forgoing, this Office concludes no violation of New Hampshire's election laws has occurred. Should the complainants wish to pursue this matter further, they are encouraged to seek the guidance of private counsel. Alternatively, the complainants may contact their State Representative or Senator to address their concerns through legislative change.

This matter is now closed. Please feel free to contact me with any questions.

Sincerely,

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

cc: Barbara Loughman, SAU #16 Counsel
Will Phillips, School Board Association

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 20, 2020

Edmund Robbins
[redacted]
East Kingston, NH 03827

Re: SAU #16, Alleged Election Official Misconduct

Dear Mr. Robbins:

From February 10 through March 9, 2020 this Office received multiple complaints alleging that SAU #16, specifically East Kingston School District (or "the District") and the Exeter Region Cooperative School District (or "the Cooperative"), violated the complainants' Constitutional rights. The complaints allege these Constitutional violations took place when the District and the Cooperative scheduled and held their respective deliberative meetings at the same time in two different places. The complainants argue that as residents who fall within both the District and Cooperative areas, they have an interest in attending and participating in both deliberative meetings. After careful review, this Office concludes there has been no violation of New Hampshire's election laws.

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Sincerely,

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

cc: Barbara Loughman, SAU #16 Counsel
Will Phillips, School Board Association

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 20, 2020

Ronald Morales
[redacted]
East Kingston, NH 03827

Re: SAU #16, Alleged Election Official Misconduct

Dear Mr. Morales:

From February 10 through March 9, 2020 this Office received multiple complaints alleging that SAU #16, specifically East Kingston School District (or "the District") and the Exeter Region Cooperative School District (or "the Cooperative"), violated the complainants' Constitutional rights. The complaints allege these Constitutional violations took place when the District and the Cooperative scheduled and held their respective deliberative meetings at the same time in two different places. The complainants argue that as residents who fall within both the District and Cooperative areas, they have an interest in attending and participating in both deliberative meetings. After careful review, this Office concludes there has been no violation of New Hampshire's election laws.

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

cc: Barbara Loughman, SAU #16 Counsel
Will Phillips, School Board Association

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 20, 2020

William Branting
[redacted]
East Kingston, NH 03827

Re: SAU #16, Alleged Election Official Misconduct

Dear Mr. Branting:

From February 10 through March 9, 2020 this Office received multiple complaints alleging that SAU #16, specifically East Kingston School District (or "the District") and the Exeter Region Cooperative School District (or "the Cooperative"), violated the complainants' Constitutional rights. The complaints allege these Constitutional violations took place when the District and the Cooperative scheduled and held their respective deliberative meetings at the same time in two different places. The complainants argue that as residents who fall within both the District and Cooperative areas, they have an interest in attending and participating in both deliberative meetings. After careful review, this Office concludes there has been no violation of New Hampshire's election laws.

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This matter is now closed. Please feel free to contact me with any questions.

Sincerely,

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

cc: Barbara Loughman, SAU #16 Counsel
Will Phillips, School Board Association

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DEPARTMENT OF JUSTICE

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CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL

JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

March 20, 2020

Norman B. Carleton
[redacted]
East Kingston, NH 03827

Re: SAU #16, Alleged Election Official Misconduct

Dear Mr. Carleton:

From February 10 through March 9, 2020 this Office received multiple complaints alleging that SAU #16, specifically East Kingston School District (or "the District") and the Exeter Region Cooperative School District (or "the Cooperative"), violated the complainants' Constitutional rights. The complaints allege these Constitutional violations took place when the District and the Cooperative scheduled and held their respective deliberative meetings at the same time in two different places. The complainants argue that as residents who fall within both the District and Cooperative areas, they have an interest in attending and participating in both deliberative meetings. After careful review, this Office concludes there has been no violation of New Hampshire's election laws.

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This matter is now closed. Please feel free to contact me with any questions.

Sincerely,

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Assistant Attorney General
Election Law Unit
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nicholas.chongyen@doj.nh.gov

cc: Barbara Loughman, SAU #16 Counsel
Will Phillips, School Board Association

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 20, 2020

Peter Calandra
[redacted]
East Kingston, NH 03827

Re: SAU #16, Alleged Election Official Misconduct

Dear Mr. Calandra:

From February 10 through March 9, 2020 this Office received multiple complaints alleging that SAU #16, specifically East Kingston School District (or "the District") and the Exeter Region Cooperative School District (or "the Cooperative"), violated the complainants' Constitutional rights. The complaints allege these Constitutional violations took place when the District and the Cooperative scheduled and held their respective deliberative meetings at the same time in two different places. The complainants argue that as residents who fall within both the District and Cooperative areas, they have an interest in attending and participating in both deliberative meetings. After careful review, this Office concludes there has been no violation of New Hampshire's election laws.

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This matter is now closed. Please feel free to contact me with any questions.

Sincerely,

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

cc: Barbara Loughman, SAU #16 Counsel
Will Phillips, School Board Association

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 20, 2020

Thain Allan
[redacted]
East Kingston, NH 03827

Re: SAU #16, Alleged Election Official Misconduct

Dear Mr. Allan:

From February 10 through March 9, 2020 this Office received multiple complaints alleging that SAU #16, specifically East Kingston School District (or "the District") and the Exeter Region Cooperative School District (or "the Cooperative"), violated the complainants' Constitutional rights. The complaints allege these Constitutional violations took place when the District and the Cooperative scheduled and held their respective deliberative meetings at the same time in two different places. The complainants argue that as residents who fall within both the District and Cooperative areas, they have an interest in attending and participating in both deliberative meetings. After careful review, this Office concludes there has been no violation of New Hampshire's election laws.

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Sincerely,

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

cc: Barbara Loughman, SAU #16 Counsel
Will Phillips, School Board Association

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 20, 2020

Claire Barnes
[redacted]
East Kingston, NH 03827

Re: SAU #16, Alleged Election Official Misconduct

Dear Ms. Barnes:

From February 10 through March 9, 2020 this Office received multiple complaints alleging that SAU #16, specifically East Kingston School District (or "the District") and the Exeter Region Cooperative School District (or "the Cooperative"), violated the complainants' Constitutional rights. The complaints allege these Constitutional violations took place when the District and the Cooperative scheduled and held their respective deliberative meetings at the same time in two different places. The complainants argue that as residents who fall within both the District and Cooperative areas, they have an interest in attending and participating in both deliberative meetings. After careful review, this Office concludes there has been no violation of New Hampshire's election laws.

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Sincerely,

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

cc: Barbara Loughman, SAU #16 Counsel
Will Phillips, School Board Association

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 20, 2020

Susan E. Doughty
[redacted]
East Kingston, NH 03827

Re: SAU #16, Alleged Election Official Misconduct

Dear Ms. Doughty:

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This matter is now closed. Please feel free to contact me with any questions.

Sincerely,

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

cc: Barbara Loughman, SAU #16 Counsel
Will Phillips, School Board Association

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 20, 2020

Clement Edington
[redacted]
East Kingston, NH 03827

Re: SAU #16, Alleged Election Official Misconduct

Dear Mr. Edington:

From February 10 through March 9, 2020 this Office received multiple complaints alleging that SAU #16, specifically East Kingston School District (or "the District") and the Exeter Region Cooperative School District (or "the Cooperative"), violated the complainants' Constitutional rights. The complaints allege these Constitutional violations took place when the District and the Cooperative scheduled and held their respective deliberative meetings at the same time in two different places. The complainants argue that as residents who fall within both the District and Cooperative areas, they have an interest in attending and participating in both deliberative meetings. After careful review, this Office concludes there has been no violation of New Hampshire's election laws.

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

cc: Barbara Loughman, SAU #16 Counsel
Will Phillips, School Board Association

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 20, 2020

Mathias Rioux
[redacted]
East Kingston, NH 03827

Re: SAU #16, Alleged Election Official Misconduct

Dear Mr. Rioux:

From February 10 through March 9, 2020 this Office received multiple complaints alleging that SAU #16, specifically East Kingston School District (or "the District") and the Exeter Region Cooperative School District (or "the Cooperative"), violated the complainants' Constitutional rights. The complaints allege these Constitutional violations took place when the District and the Cooperative scheduled and held their respective deliberative meetings at the same time in two different places. The complainants argue that as residents who fall within both the District and Cooperative areas, they have an interest in attending and participating in both deliberative meetings. After careful review, this Office concludes there has been no violation of New Hampshire's election laws.

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Nicholas A. Chong Yen
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cc: Barbara Loughman, SAU #16 Counsel
Will Phillips, School Board Association

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CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL

JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

March 20, 2020

Robert F. Costello
[redacted]
East Kingston NH 03827

Re: SAU #16, Alleged Election Official Misconduct

Dear Mr. Costello:

From February 10 through March 9, 2020 this Office received multiple complaints alleging that SAU #16, specifically East Kingston School District (or "the District") and the Exeter Region Cooperative School District (or "the Cooperative"), violated the complainants' Constitutional rights. The complaints allege these Constitutional violations took place when the District and the Cooperative scheduled and held their respective deliberative meetings at the same time in two different places. The complainants argue that as residents who fall within both the District and Cooperative areas, they have an interest in attending and participating in both deliberative meetings. After careful review, this Office concludes there has been no violation of New Hampshire's election laws.

In following-up on this matter, this Office reviewed the information accompanying each complaint, spoke with the New Hampshire School Board Association, and reviewed a response from SAU #16's counsel, Attorney Barbara Loughman.

RSA 197:5 states that "[s]chool district meetings shall be warned by the school board, or, in cases authorized by law, by a justice of superior court, by a warrant addressed to the voters of the district, stating the time and place of the meeting and the subject matter of the business to be acted upon."

RSA 40:13 states that the annual meeting for the transaction of business take place at a time prescribed by the local political subdivision's governing body.

These statutes collectively authorize a school board to choose the date for their respective deliberative session of the annual school district meeting. RSA 40:13 only provides a period of seven days during which the five districts that make up SAU #16 may schedule a deliberative meeting. Based on the information this Office reviewed, the District and the Cooperative followed the statutory scheduling requirements in this case.

We understand from the School Board Association that the best practice is to have member districts of an SAU hold meetings on different dates. However, while this may be best practice, there is no statute that requires this action. Furthermore, there is no evidence, nor do the complainants allege, that the deliberative meetings for either the District or the Cooperative were improperly warned.

In light of the forgoing, this Office concludes no violation of New Hampshire's election laws has occurred. Should the complainants wish to pursue this matter further, they are encouraged to seek the guidance of private counsel. Alternatively, the complainants may contact their State Representative or Senator to address their concerns through legislative change.

This matter is now closed. Please feel free to contact me with any questions.

Sincerely,

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

cc: Barbara Loughman, SAU #16 Counsel
Will Phillips, School Board Association

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 20, 2020

Robert E. Saulnier
[redacted]
East Kingston, NH 03827

Re: SAU #16, Alleged Election Official Misconduct

Dear Mr. Saulnier:

From February 10 through March 9, 2020 this Office received multiple complaints alleging that SAU #16, specifically East Kingston School District (or "the District") and the Exeter Region Cooperative School District (or "the Cooperative"), violated the complainants' Constitutional rights. The complaints allege these Constitutional violations took place when the District and the Cooperative scheduled and held their respective deliberative meetings at the same time in two different places. The complainants argue that as residents who fall within both the District and Cooperative areas, they have an interest in attending and participating in both deliberative meetings. After careful review, this Office concludes there has been no violation of New Hampshire's election laws.

In following-up on this matter, this Office reviewed the information accompanying each complaint, spoke with the New Hampshire School Board Association, and reviewed a response from SAU #16's counsel, Attorney Barbara Loughman.

RSA 197:5 states that "[s]chool district meetings shall be warned by the school board, or, in cases authorized by law, by a justice of superior court, by a warrant addressed to the voters of the district, stating the time and place of the meeting and the subject matter of the business to be acted upon."

RSA 40:13 states that the annual meeting for the transaction of business take place at a time prescribed by the local political subdivision's governing body.

These statutes collectively authorize a school board to choose the date for their respective deliberative session of the annual school district meeting. RSA 40:13 only provides a period of seven days during which the five districts that make up SAU #16 may schedule a deliberative meeting. Based on the information this Office reviewed, the District and the Cooperative followed the statutory scheduling requirements in this case.

We understand from the School Board Association that the best practice is to have member districts of an SAU hold meetings on different dates. However, while this may be best practice, there is no statute that requires this action. Furthermore, there is no evidence, nor do the complainants allege, that the deliberative meetings for either the District or the Cooperative were improperly warned.

In light of the forgoing, this Office concludes no violation of New Hampshire's election laws has occurred. Should the complainants wish to pursue this matter further, they are encouraged to seek the guidance of private counsel. Alternatively, the complainants may contact their State Representative or Senator to address their concerns through legislative change.

This matter is now closed. Please feel free to contact me with any questions.

Sincerely,

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

cc: Barbara Loughman, SAU #16 Counsel
Will Phillips, School Board Association

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, 2020

Kim Colbert, Town Clerk
7 Meetinghouse Road,
New Boston, NH 03070

Dear Clerk Colbert,

I write to acknowledge the January 27, 2020 conversations that you had with Investigator Richard Tracy and Assistant Secretary of State Orville "Bud" Fitch, regarding your handing Sophia Harkins' absentee ballot to her father, Clayton Harkins on or about January 23, 2020.

RSA 657:15 Sending Absentee Ballots states in part, "[w]hen the verification required by RSA 657:12 or 657:13 has been made, the clerk shall retain the application and, without delay, personally deliver, email, or mail to the applicant the appropriate ballot…" (emphasis added). RSA 657:15 permits the clerk to designate an assistant to deliver materials to the applicant, provided the assistant is not a candidate for nomination or office or is working for such a candidate.

Investigator Tracy informed you, and you indicated you now understand, that an absentee ballot must be delivered to the person requesting it and cannot be given to a third party, unless the person is the clerk's designated assistant according to the requirements of RSA 657:12. Thank you for your service to the New Boston residents and please do not hesitate to call should you have any questions or concerns going forward.

Sincerely,

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

cc: Assistant Secretary of State Orville Fitch
Theresa Harkins

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 25, 2020

Patti Barry, Town Clerk
Town of Hudson
12 School Street
Hudson, NH 03051

Dear Clerk Barry

On January 14, 2020, [redacted] of Hudson, New Hampshire sent a complaint to the American Civil Liberties Union. In his complaint he alleged he was twice denied by the Hudson Town Clerk's Office while registering to vote. [redacted] indicated it was not until the Secretary of State's Office intervened on his part that he was allowed to register.

If an applicant for voter registration does not bring a document, in either paper or electronic form, which proves his or her identity, age, or citizenship, the applicant must still be allowed to register to vote by completing a stand-alone Qualified Voter Affidavit. See RSA 654:12. Applicants must not be sent away to retrieve documents.

On March 23, 2020, in speaking with Investigator Richard Tracy, you acknowledged the mistake made by Deputy Clerk Donna Melanson. You informed Investigator Tracy that you had spoken to Ms. Melanson and instructed her never to turn away a voter from registering to vote if they do not possess proof of his/her qualifications to vote. You also told Investigator Tracy that you have taken steps to assure that this does not happen again.

Thank you for your continued service to the residents of Hudson, please do not hesitate to contact our office should you have any questions or concerns.

Sincerely,

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

cc: Orville Fitch, Secretary of State's Office
Henry Klementowicz, American Civil Liberties Union
[redacted]

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 30, 2020

William E. Christie, Esq.
Shaheen & Gordon
P.O. Box 2703
107 Storrs Street.
Concord, NH 03301

Dear Attorney Christie,

On February 11, 2020, we received your complaint regarding signs posted outside the Town of Nottingham's polling place during the Presidential Primary Election. After receiving your complaint and accompanying photos depicting the signs, this Office reported your concerns to the Nottingham Police Department, who in turn dispatched Sgt. Fawn Woodman to investigate.

On March 26, 2020, Chief Investigator Richard Tracy spoke with Sgt. Woodman. She advised Investigator Tracy that upon her arrival the "ID REQUIRED" portion of the sign in question had been covered with black tape. Sgt. Woodman further reported that the officials had only used older signs from previous elections in order to identify the school as the new polling place. The officials acknowledge they forgot to cover the "ID REQUIRED" language.

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

Sincerely,

Nicholas 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 31, 2020

L. Phillips Runyon, Town Moderator
P.O. Box 674
Peterborough, NH 03458

Dear Moderator Runyon,

I write as a follow up to a conversation you had with Investigator Richard Tracy on March 30, 2020. As you are now aware, on February 11, 2020 during the Presidential Primary Peterborough voter [redacted] checked in to vote and another voter, [redacted] was checked off instead. Based on this mistake, ballot clerk then handed [redacted] a Democratic ballot rather than a Republican ballot. We understand that in lieu of returning the ballot to an election official, [redacted] placed it into the ballot counting machine, then returned to the ballot clerk and insisted on receiving a Republican ballot. Supervisor of the Checklist Carol Lenox intervened and with the assistance of a representative from the Attorney General's Office, explained to [redacted] that because he had already cast one ballot, even if it was left blank as reported, he could not cast a second ballot.

We would like to take this opportunity to review the proper procedures ballot clerks should follow during the check-in process.

When voters present themselves to a ballot clerk on Election Day, they must announce their name and domicile address to the ballot clerk. RSA 659:13. If the voter's name is located on the checklist, the ballot clerk must repeat his or her name and address back to the voter. RSA 659:13. Ballot clerks are strongly encouraged to use a ruler to locate the voter's name on the checklist. The voter is then required to provide proof of his or her identity. RSA 659:13. Alternatively, if the voter does not have proof of identity, they may complete a Challenged Voter Affidavit and still be permitted to vote.

On pages 244-247 of the 2018-2019 Election Procedure Manual, a summary of the ballot clerk procedure as briefly outlined above is provided. Please feel free to share this resource with your ballot clerks. Following this outline can help clerks ensure accuracy during the check-in process and prevent the wrong voter from being marked. This can reduce confusion and limit instances where voters that have similar, but different names are given the wrong ballot.

Thank you for all that you and your team of election officials do for the voters of Peterborough, please do not hesitate to contact us should you have any questions or concerns.

Sincerely,

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

Events Note to File

Seabrook, Alleged Election Official Misconduct | 2020141627 | 3/31/2020 11:48:31 | Note to File

This matter will be closed as unfounded.

Mr. Comley's complaint alleged that Seabrook election officials had violated a statute that prohibited the electioneering area from being more than 20 feet from the entrance. He did not provide the statute he referenced. He also alleged that the location where election officials established the electioneering zone prevented candidates like him from being able to communicate with voters.

I asked Mr. Comley if he was prohibited from holding signs in the area. He said there was no such prohibition. I asked Mr. Comley if there was a restriction on those electioneering from calling out to voters. Mr. Comley said no such restriction existed. I asked if electioneers were prohibited from handing out campaign materials. Mr. Comley said no such prohibition existed. Mr. Comley said he just felt as if being further away from the polling place entrance was wrong.

In speaking with election officials, we learned that the decision to move back the electioneering zone was done 3-4 years ago, after concerns were raised by voters. Voters felt intimidated by electioneers when the original electioneering zone was right on top of the sidewalk entrance. Officials indicated the new electioneering zone is within sight and sound of the entrance.

In reviewing this complaint, there is no statute that requires the electioneering zone be within 20 feet of the entrance. There is no evidence to suggest that the new electioneering zone is outside sight and sound of the entrance.

Therefore, 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

March 31, 2020

Charles Gravenhorst
[redacted]
Belmont, NH 03220

Re: Alleged Illegal Campaign Activity

Dear Mr. Gravenhorst:

On March 10, 2020, we received your complaint alleging that: 1) a public employee impermissibly engaged in electioneering by posting political advertisements/signs contrary to RSA 659:44-a; and 2) a political advertisement/mailer was sent out without identifying who was responsible for it contrary to RSA 664:14. You further alleged that Donna Cilley, a town employee, was responsible for both publications. After careful review, we conclude there has been no violation of New Hampshire's election laws.

In following-up on this matter, we reviewed the information and documents accompanying your complaint, contacted and spoke with Donna Cilley, and contacted and spoke with Belmont Town Administrator Jeanne Beuadoin.

RSA 659:44-a prohibits public employees from electioneering while in the performance of his or her official duties.

In speaking with Ms. Cilley, we understand she was only responsible for the signs identified in your complaint and not the mailer. With respect to the signs, Ms. Cilley used personal funds to purchase the signs, which she did on her own personal time. Therefore, RSA 659:44-a would not apply here because Ms. Cilley did not create nor post the signs while in the performance of her official duties. Additionally, Ms. Cilley's signs were posted on private property, with the permission of the property owner or along state-owned-rights-of-way, which is authorized under RSA 664:17. Furthermore, Ms. Cilley only learned of one sign being placed on public property, which upon discovering, she immediately had removed.

With respect to the mailer identified in your complaint, Administrator Beaudoin indicated the Town of Belmont was responsible for publishing it.

RSA 664:14 requires all political advertising include the name and address of the individuals or entities 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 reviewing the message of the mailer in question, we conclude that this publication does not violate RSA 664:14. The mailer simply provides the recipient with information on when and where to vote. It does not expressly advocate for the reader to vote in favor of or against a particular candidate or measure. Therefore, it does not constitute a political advertisement within the meaning of the statute, and does not trigger the identification requirements under RSA 664:14. However, we do note that the back of the mailer clearly identifies the Town of Belmont in the return address.

Based on the forgoing, we conclude there has been no violation of New Hampshire's election laws. This matter is now 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: Donna Cilley
Jeanne Beaudoin, Belmont Town Administrator

ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL

JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

April 2, 2020

Eileen Mashimo, Supervisor of the Checklist
Town of Windham
[redacted]
Windham, NH 03087

Dear Supervisor Mashimo,

On February 20, 2020, you reported your concern that [redacted] were likely domiciled in Andover, Massachusetts and not Windham, New Hampshire. Chief Investigator Richard Tracy conducted research, spoke with you, and also spoke with [redacted] reported that she and [redacted]'s primary domicile is their residence in Windham. Investigator Tracy verified with the Andover Town Clerk's Office that [redacted] are not registered voters and have not voted in Andover.

We understand that [redacted] after providing copies of documents they received from the New Hampshire Department of Revenue Administration, satisfied the concerns of the Windham Supervisors of the Checklist regarding their domicile. We learned that the Windham Supervisors allowed them to reregister and vote during the Presidential Primary on February 11, 2020.

In light of the forgoing, your reported concern is now moot, and does not required further review by the Election Law Unit. This matter is now closed. Please contact me if you have any questions.

Sincerely,

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

cc: [redacted]

ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL

JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

April 6, 2020

Susan Wall, Town Clerk
Town of Salem
33 Geremonity Drive
Salem, NH 03079

Dear Clerk Wall,

I write as a follow up to the conversation that you had with Chief Investigator Richard Tracy regarding the complaint that our office received on February 11, 2020, regarding a voter in Salem who alleged that she was turned away from District 1 where she now resides and told to return to the district where she was formerly domiciled.

RSA 658:16, states "[e]xcept as otherwise provided, the conduct of the election at the additional polling place shall be the same as at the central polling place". Both the Secretary of State and Attorney General's Office interpret that to mean that the Town of Salem should provide a voter who has moved into a particular district the opportunity to register and vote in that district regardless if they are registered to vote in another district. When voters change their domicile from one town to another or from one ward to another ward in the same city or town they are required to register and vote in that town or ward, the same is true for districts.

We hope that this information will be useful to you. Please feel free to contact us should you have any questions or concerns. We appreciate all that you do for the voters of Salem.

Sincerely,

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

Copied to: Attorney Paul Twomey
Assistant Secretary of State Orville Fitch

ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL

JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

April 6, 2020

Betsy McClain, Director of Administrative Services, Town Clerk
Town of Hanover
P.O. Box 483
Hanover, NH 03755

Dear Clerk McClain,

I write in response to the information you forwarded to this Office regarding a registered Hanover voter, [redacted] and a purported California Voter Registration Form dated January 11, 2020. We understand the California form was dated eight days after the Hanover Town Clerk's Office received [redacted] absentee ballot for the February 11, 2020, New Hampshire Presidential Primary. Chief Investigator Richard Tracy spoke with you, [redacted] and reviewed documents provided from both the Hanover Town Clerk's Office and [redacted] Based on our investigation we found no evidence to suggest [redacted] unlawfully applied for and completed an absentee ballot. [redacted] was out of the country on January 11, 2020 when the California Voter Registration Form was purportedly completed.

It appears an unknown subject submitted a fraudulent California Voter Registration Form in [redacted] name to the attention of the Hanover Town Clerk's Office. Without the original envelope that the document was mailed in, we are unable to determine where it originated from or identity of the subject responsible for it. To the extent that the Supervisors of the Checklist removed [redacted] from the checklist because they believed the form was a Notice of Transfer from California, this form would not constitute such a notice. As such, [redacted] should be reinstated. If you believe that [redacted] is no longer living Hanover, NH, then the Supervisors may send [redacted] a 30-day letter to verify his domicile consistent with RSA 654:44.

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

Sincerely,

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

Copied to: [redacted]

ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL

JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

April 6, 2020

Paul Crawford, Ward 5 Moderator
City of Manchester
383 Beech Street,
Manchester, NH 03103

Dear Moderator Crawford,

I write to follow up on the recent conversation that you had with Chief Investigator Richard Tracy, regarding an incident that occurred on February 11, 2020, during the Presidential Primary at Ward 5. It was reported that a ballot clerk allowed a media camera crew member to handle an official blank ballot and that the camera crew entered the guardrail area of the Ward 5 polling location at Beech Street School. It is our understanding that you intervened to prevent the camera crew from proceeding further, took possession of the ballot obtained by the media crew, and then addressed the issue with the ballot clerk in question.

You acknowledged your understanding of RSA 658:25, which states in relevant part that clerks "shall have charge of the ballots and shall furnish them to the voters." You also acknowledged that New Hampshire's election laws state that no persons other than "election officers, the voters admitted or those admitted to aid a voter pursuant to RSA 659:20 shall be permitted within the guardrail except by the authority of the election officers and, then, only for the purpose of keeping order and enforcing the law." RSA 659:21.

We encourage you and your election officials to review these statutes to ensure compliance with their requirements. Failure to prohibit unauthorized individuals from entering the guardrail area may cause confusion and inadvertently undermine the security and privacy of the voting area. Thank you for all that you and your team of election officials do for the voters in Ward 5, Manchester. Please feel free to contact us should you have any questions or concerns.

Sincerely,

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

Coped to: Matthew Normand, City Clerk

DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL
CONTINUATION OF INVESTIGATION/ARREST REPORT

Matter #	Case Name	Investigator	Report Date
2020141629	[redacted] Alleged Wrongful Voting	Richard C. Tracy	April 1, 2020

[redacted]

February 11, 2020, at approximately 1720 hours [redacted] contacted the Election Hotline to report that her ex-boyfriend claims [redacted] NH as his residence when he lives in [redacted] MA. Paralegal Jill Tekin forwarded the information to Senior AG Matthew Mavrogeorge who reached out to [redacted] who preferred not to provide her last name or additional contact information.

[redacted] reported that she was in a long term relationship starting in 20[redacted] with [redacted] explained that she knows for sure that [redacted] voted in [redacted] NH in the 2016 Presidential Election where he no longer lived at that time. [redacted] had no idea if [redacted] voted in the February 11, 2020 Presidential Primary in [redacted] or not.

[redacted]

ElectioNet indicates that [redacted] is a registered voter at [redacted] NH that he voted 5 times since 01/10/2012, the last time being in the November 8, 2016 Presidential Election.

March 26, 2020, I contacted [redacted] who explained that she was in a relationship with [redacted] provided the following address [redacted] as to where [redacted] is living. I asked [redacted] about [redacted] MA. an address I came across in TLO, which [redacted] responded that he had been staying there at one point. [redacted] stated that [redacted] parents live at [redacted]

[redacted] knew that [redacted] voted in [redacted] during the 2016 Presidential Election, she doesn't have any evidence or knowledge that he voted in [redacted] since 2016. [redacted] stated that [redacted] was not living in [redacted] in 2016.

[redacted] explained that last year (2019) she notified [redacted] Police Department that [redacted] was living in [redacted] but had his vehicle registered to his [redacted] address in [redacted] NH. [redacted] knew from talking with a [redacted] Police Officer that worked the overnight shift that the PD was tracking the dates that [redacted] vehicle was seen parked overnight in [redacted] something Massachusetts officials take seriously, according to

DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL
CONTINUATION OF INVESTIGATION/ARREST REPORT

Matter #	Case Name	Investigator	Report Date
2020141629	[redacted] Alleged Wrongful Voting	Richard C. Tracy	April 1, 2020

[redacted] could not recall the name of the officer she was speaking with in [redacted] and does not know the status of their tracking [redacted] in overnight stays in [redacted]

[redacted] asked if she could keep her name out of this. I told her that I was aware of the protective order that she had against [redacted] I told [redacted] that I couldn't promise anything, however it doesn't appear [redacted] has voted in [redacted] NH since 2016. I told [redacted] that I could alert [redacted] election officials asking that they have [redacted] provide proof that he resides in [redacted] and not [redacted] thanked us for our time.

[redacted] Supervisor of the Checklist
Town of [redacted]
[redacted]

April 3, 2020, in speaking with [redacted] Town Clerk, [redacted] on another matter, I asked her for one the Supervisor of the Checklist contact information so I could inform them about [redacted] Clerk [redacted] provided me with the above email address. I sent [redacted] an email advising her that we received information that [redacted] more likely than not is living in [redacted] Supervisor [redacted] responded to my email stating they would send a 30-day letter once they are allowed back in the office (COVID-19)

Assistant Attorney General Nicholas Chong Yen will close this matter with a note to the file.

Page 2 of 2 pages	SIGNED	DATE 4-6-20

ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL

JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

April 8, 2020

Gavin A. Lacroix-Lacourciere
[redacted]
Manchester NH 03103

Re: **CEASE AND DESIST ORDER**
Warning for violation of RSA 659:34

Dear Mr. Lacroix-Lacourciere:

On February 11, 2020, you registered to vote in Hooksett, New Hampshire during the Presidential Primary. On your registration form, you wrote that you were domiciled at [redacted] Hooksett, New Hampshire. As a result, you successfully registered to vote and voted in Hooksett.

On February 29, 2020, this Office was contacted by the Hooksett Supervisors of the Checklist. The Supervisors reported that when reviewing your voter registration form, they recognized the address you listed as belonging to student housing for Southern New Hampshire University ("SNHU"). However, when the Supervisors contacted the director of student housing at SNHU, they were informed that you had not lived on campus since the spring of 2019 and you should not have used the campus school address to register to vote.

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 resident does not lose their place of domicile during a temporary absence if they intend to return to their place of domicile. *See* RSA 654:2, I. The plain and ordinary meaning of the word "temporary" means "[l]asting for a time only; existing or continuing for a limited (usually short) time." BLACK'S LAW DICTIONARY (8th ed. 2004). A "voter can only have **one** domicile for voting purposes." RSA 654: 2 I. (emphasis added).

On March 18, 2020, you spoke with Chief Investigator Richard Tracy. You admitted to Investigator Tracy that you did not live at [redacted] in Hooksett at the time you registered to vote in the February 2020 Presidential Primary. You further admitted that at the

time of your registration, you were in fact, living at [redacted] in Manchester, New Hampshire. Investigator Tracy informed you that if you choose to vote in future elections, and continue to be domiciled at the address you identified in Manchester, then you would need to register to vote in the appropriate Manchester ward.

Based on the forgoing, we have concluded that you were not domiciled in Hooksett, New Hampshire during the 2020 Presidential Primary. Be advised that your actions could have constituted a violation of RSA 659:34, I (c) which prohibits "vot[ing] for an office or measure at an election if such person is not qualified to vote as provided in RSA 654."

Pursuant to Part I, article 11 of the New Hampshire Constitution, RSA 659:34, and RSA 654:1, and based upon the investigation conducted by our office, you are hereby ordered to **Cease and Desist from voting in Hooksett, New Hampshire unless and until you establish your domicile there**. Failure to comply with this Cease and Desist Order may result in this office pursuing criminal prosecution or civil penalties.

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

Cease and Desist Order Issued

By Authority of:

Gordon J. MacDonald
Attorney General

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

cc: Hooksett Supervisors of the Checklist
Hooksett 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

April 8, 2020

Audrey Dolan, President
Strafford Education Association
22 Roller Coaster Road,
Strafford, NH 03884

Re: Political Advertising Identification Requirements under RSA 664:14

Dear President Dolan,

On March 6, 2020, this Office received a complaint regarding a postcard, advertising the Strafford School District Meeting, scheduled for Saturday, March 7, 2020, and asking voters to vote "YES" on two warrant articles. The complaint alleged that the postcard failed to contain the identification information required under RSA 664:14.

On April 3, 2020, New Hampshire's National Education Association Director Peter Miller contacted Chief Investigator Richard Tracy to discuss the postcard in question. Director Miller verified that the postcard was mailed out by the Strafford Education Association.

However, the postcard does not identify who is responsible for it. We would like to take this opportunity to review the applicable statute governing the identification requirements for political advertisements, specifically to 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 names and address of the candidate, persons, or entity responsible for it.

Based on the forgoing, the postcard in question would constitute a political advertisement because it expressly advocates for success of measures, in this case, two warrant articles. As such, the postcard triggers the identification requirements under RSA 664:14. We understand that you have acknowledged that the Strafford Education Association ("SEA") failed to include the required identification information on this postcard. We also understand that SEA will ensure that the appropriate requirements will be complied with in the future. To that end, this Office encourages you to review the above-referenced statutes.

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

Sincerely,

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

Copied to: Carol Johnson
Peter Miller, Director NHNEA

Events Note to File

Concord Ward 8, Alleged Election Official Misconduct	2020141675	4/8/2020 12:21:01	Note to File

This matter will be closed.

After review, it appears this matter was triggered by the mistaken understanding of an election official regarding party change.

Chief Investigator Richard Tracy has contacted the City Clerk and shared the applicable statutes as well as process involved with changing to undeclared. Investigator Tracy has asked the City Clerk review that information with Concord's election officials to reinforce and clarify (if applicable) their understanding of party change and changing to undeclared.

The complainant has been updated with the above-referenced information.

As such, 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

April 13, 2020

Jessica Olson, Town Clerk
Town of New Ipswich,
661 Turnpike Road,
New Ipswich, NH 03071

Dear Clerk Olson,

On March 9, 2020 you spoke with Chief Investigator Richard Tracy regarding your handing the [redacted] family members' absentee ballots to [redacted] for delivery to those families on or about March 5, 2020. We understand [redacted] is the landlord to both families.

RSA 657:15 states in part that, "[w]hen the verification required by RSA 657:12 or 657:13 has been made, the clerk shall retain the application and, without delay, personally deliver, email, or mail to the applicant the appropriate ballot…" (emphasis added). RSA 657:15 permits the clerk to designate an assistant to deliver materials to the applicant, provided the assistant is not a candidate for nomination or office or is working for such a candidate.

Investigator Tracy informed you, and you indicated you now understand, that an absentee ballot must be delivered to the person requesting it and cannot be given to a third party, unless the person is the clerk's designated assistant according to the requirements of RSA 657:12. Thank you for your service to the New Ipswich residents and please do not hesitate to call should you have any questions or concerns going forward.

Sincerely,

Nicholas 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

April 13, 2020

Scott Manning
[redacted]

Dear Mr. Manning,

On February 29, 2020, this Office received a complaint regarding a political advertisement – a mailer – advocating for the success of Warrant Article #5, and asking Littleton voters to vote "YES" on the article. The complaint alleged that the mailer failed to contain the identification information required under RSA 664:14.

On April 8, 2020, Chief Investigator Richard Tracy spoke with you to discuss the mailer in question. You indicated you were a member of the Partridge Lake Association ("PLA") and verified that PLA created and mailed out the political advertisement to the residents of Littleton.

However, the postcard does not identify who is responsible for it. We would like to take this opportunity to review the applicable statute governing the identification requirements for political advertisements, specifically to 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 names and address of the candidate, persons, or entity responsible for it.

Based on the forgoing, the mailer in question would constitute a political advertisement because it expressly advocates for the success of a measure, in this case, Littleton Warrant Article #5. As such, the mailer triggers the identification requirements under RSA 664:14. We understand that you have acknowledged PLA failed to include the required identification

information on this mailer. We also understand that PLA will ensure that the appropriate requirements will be complied with in the future. To that end, this Office encourages you to review the above-referenced statutes.

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

Sincerely,

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

Copied to: Paul Lopes

ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL

JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

April 13, 2020

Martha English
Supervisor of the Checklist
Town of Strafford
P.O. Box 31
Strafford, NH 03884

Christine Bane
Town Clerk
Town of Strafford
12 Mountain View Drive
Strafford, NH 03884

Dear Supervisor English & Clerk Bane,

I write to follow up with the conversation that you each had with Chief Investigator Richard Tracy on April 8, 2020, regarding what appears to have been a mistake made by a Strafford ballot clerk, during the February 11, 2020 Presidential Primary. Based on our follow-up for this matter, we understand that the ballot clerk may have incorrectly checked off [redacted] as voting in Strafford during the Primary. This Office has since confirmed that it was [redacted]s mother, [redacted] who voted in Strafford during the February 11, 2020 Presidential Primary and not [redacted] We suggest that you update your voting records to reflect that [redacted] voted and not [redacted] in Strafford on February 11, 2020.

Additionally, Investigator Tracy noted on the Strafford Voter Checklist that a ruler was not used to cross out [redacted]s name. Both the Secretary of State's Office and the Attorney General's Office strongly encourage ballot clerks to use rulers when crossing out the names of voters, which is likely to reduce the chance of error. We direct your attention to the New Hampshire Election Procedure Manual: 2018-2019, page 247, paragraph #12, under Ballot Clerk Procedure, which states in part "[t]he Ballot Clerk uses a ruler or straight edge to mark the checklist to indicate that the Voter has obtained his or her ballot."

We hope this information will prove useful to you. Please feel free to contact us if you have any questions.

Sincerely,

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

Copied to: Orville Fitch, Assistant Secretary of State

ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL

JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

April 13, 2020

[redacted]
Manchester, NH 03102

Dear [redacted]

On February 12, 2020, this Office was notified by the Manchester City Clerk's Office that you provided a letter from United States Citizenship and Immigration Services requesting your removal from the voter checklist. We understand you are currently working toward Naturalization and this is a condition of that process.

On April 6, 2020, during a telephone conversation with Chief Investigator Richard Tracy, you acknowledged that you registered to vote and voted in 2016 in New Hampshire. However, at the time of your registration, you believed that you were in fact a United States citizen. You stated to Investigator Tracy that it was not until 2018 when you learned that you moved to Manchester, New Hampshire when you were 3 years old. Your parents never told you that you were not a United States citizen. Additionally, prior to your registration, you obtained a New Hampshire driver's license and were under the impression that the issuance of the license confirmed you were a U.S. citizen.

New Hampshire RSA 659:34, states in part that it is illegal to vote for any office or measure at an election if the person is not qualified to vote as provided in RSA 654. RSA 654:12 states that the supervisors of the checklist shall require the applicant present proof of citizenship, age, and domicile.

We understand Manchester has sent you a 30-day letter for removal from the checklist, and that it is your intention to be removed to fulfill one of the conditions of your Naturalization. However, unless and until you become a United States citizen, you cannot register to vote or vote in any election in New Hampshire.

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

Sincerely,

Richard C. Tracy
Chief Investigator
Criminal Justice Bureau
(603) 271-3671
richard.tracy@doj.nh.gov

cc: JoAnn Ferruolo, Manchester Deputy City Clerk
Orville Fitch, Assistant Secretary of State

ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL

JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

April 14, 2020

Ronald Carvell, Board Chair
Milford School District SAU #40
100 West Street
Milford, NH 03055

Re: **CEASE AND DESIST ORDER**
Violation of RSA 197:6

Dear Chairperson Carvell:

On January 24, 2020, this Office received complaints alleging that the Milford School Board unlawfully blocked a petitioned warrant article from being added to the then-upcoming warrant.

During our inquiry into this matter, we reviewed information and documents accompanying multiple complaints, including a letter sent by Milford Moderator Peter Basiliere to the Milford School Board (or the "Board"), email exchanges between Board members provided through a Right-to-Know request, and minutes from the Board's January 16, 2020 non-public session provided through a Right-to-Know request. This Office also spoke with the Board's counsel, Meghan Glynn, Town Clerk Joan Dargie, as well as Moderator Basiliere. We also received and reviewed a response to the complaints from Attorney Glynn on behalf of the Board. From the review, we distilled the below timeline.

According to Clerk Dargie, on March 15, 2019, School Clerk Regina Matthews deputized Dargie as Deputy School Clerk. This was to help with a recount, but also to help with taking in declarations of candidacy.

On January 14, 2020, the proponents of the petitioned warrant article obtained the necessary signatures to submit their petition to the Board. These signatures were verified by Clerk Dargie, but the certification was then given to School Clerk Matthews, who signed and delivered the petition to the Board.

According to the Board, while the petitioned article was delivered by School Clerk Matthews to the Board's business administrator, it was not scanned and emailed to Board Chair Ronald Carvell until 4:30PM. The Board's office closes at 4:00PM.

On January 16, 2020, the Board's non-public session minutes shows a vote to deny placing the petition on the warrant. Chairperson Carvell was recused from the vote. The remaining four members of the Board voted in favor of the motion to deny placing the petition on the warrant.

This information was not made available to the petitioners, nor was a public record of the vote published at that time.

It was not until January 23, 2020, when Moderator Basiliere requested a copy of the warrant that he discovered the petitioned article had not been added. On that date, Moderator Basiliere notified the petitioners of his discovery. The petitioners did not receive any other notice.

On January 24, 2020, Chairperson Carvell sent Clerk Dargie a letter stating that she was not the Deputy School Clerk and no such position existed. He referenced a similar discussion the Board had with Clerk Dargie back in October of 2019. He further directed Clerk Dargie to cease any further reference of herself as the Deputy School Clerk and not perform any school board related functions.

Clerk Dargie maintains that she has never previously spoken to Chairperson Carvell about this matter, nor does she possess any written communication from the Board regarding the same. We understand from Attorney Glynn the Board had made "continual efforts" to inform Clerk Dargie that the Deputy School District Clerk position does not exist.

On January 25, 2020, Moderator Basiliere sent a letter to the Board, expressing his concern that the petitioned article was not added to the warrant. Notably, Moderator Basiliere made the following observations:

- Had he not asked for a copy of the warrant, the petitioners would not have been notified of the Board's decision;
- The School District Clerk ultimately received and delivered the petitioned article to the SAU; and
- The petition asks Chairperson Carvell and Milford Superintendent, Dr. Jessica Huizenga to voluntarily resign. Basiliere pointed out that the petition does not call for a vote that will have no legal effect.

From January 25 to January 27, Board members' emails show a discussion about Moderator Basiliere's letter and whether to hold an emergency meeting to reconsider adding the petitioned article to the warrant. Chairperson Carvell again recused himself. Vice-Chair Kevin Drew determined that Moderator Basiliere's letter did not offer any additional information not already considered by the Board. As such, an emergency meeting was not held.

RSA 197:6 requires a school board to insert the petitioned article in the school district warrant upon written application of 25 or more voters or 2 percent of the voters of the school district, whichever is less.

RSA 40:13 indicates that the final date for submission of petitioned articles under RSA 197:6 shall be the second Tuesday in January.

In this case, both the Board and complainants agree that the deadline to file a petitioned article was January 14, 2020. Additionally, the Board has not argued that the petitioned article failed to obtain the required number of signatures under RSA 197:6.

Instead, the Board argues that it was absolved of its legal obligation to add the petitioned article because:

1. The article had not been emailed by the Board's business administrator to the Board until 4:30PM; and
2. The article was illegal because it sought an action the Board was not able to take.

With respect to the first argument, RSA 40:13 does not require petitioners to submit their article before a specific time. In this case, the Board does not dispute that the petitioned article was ultimately submitted to Clerk Matthews, who is an agent of the Board, on the date that it was due, January 14, 2020. The petitioners reasonably believed that the receipt of their article by the School Clerk constituted valid submission of their petitioned article. Therefore, this Office concludes that the petitioned article was properly submitted pursuant to RSA 197:6.

Even assuming that the Board is correct and that RSA 197:6 restricts the submission of petitioned articles to business hours, there is no evidence to establish that the petitioners failed to submit their article before 4:00PM. Rather, it was an agent of the Board, a business administrator, who did not share the petitioned article with Board members before the close of business. The petitioners' article cannot be denied because of the actions of the Board's agent.

With respect to the second argument, RSA 197:6 does not give the Board discretion on whether or not to insert an article. The statute does not mandate that only articles the Board can act on may be inserted.

In Woodside v. Selectmen of Derry, a petition was filed with the selectmen pursuant to RSA 39:3, to elect a seven member Planning Board. 116 N.H. 606, 607 (1976). The selectmen voted not to insert the article in the warrant. Id. The selectmen argued that they had discretion whether or not to insert an article. Id. The Court held that the clear legislative intent of RSA 39:3 was that the selectmen have no discretion whether to insert an article in a warrant. Id. at 608.

> "Occasionally, selectmen receive a petitioned article which calls for an action which is either illegal or without authorization under state law. It is suggested that the article be placed in the warrant and if the selectmen question its legality, an opinion be obtained from town counsel after which the moderator would announce that the article is improper." 13 New Hampshire Practice Series: Local Government Law §226 (2019). (emphasis added).

Given the parallels between the process surrounding petitioned warrant articles for both selectboards and school boards, the holding in Woodside should be applied in this case. In light of the Woodside holding, the guidance from the New Hampshire Practice series, and the absence

of any language under RSA 197:6 consistent with the Board's argument, this Office concludes that the Board did not possess a valid basis for denying including the petitioned article and therefore violated RSA 197:6.

In light of our conclusion that the Board violated RSA 197:6 by failing to add the petitioned warrant article in question, the Board is hereby ordered to cease and desist any and all activities which violate this provision in the future. Any future failure to comply with our State's election laws may result in this Office taking legal action as needed to ensure compliance.

Cease and Desist Order Issued

By the Authority of:

GORDON J. MACDONALD
ATTORNEY GENERAL

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

cc: Peter Basiliere, Milford Moderator
Joan Dargie, Milford Town Clerk
George Hoyt
Milford Citizen
Meghan Glynn, Milford School District SAU #40 Counsel

[redacted] Alleged Wrongful Voting

4/15/2020 This matter will be closed.

Through follow-up in this matter, it is likely the mailer received by the complainant was simply placed in the wrong unit's mail box. Both the complainant and the subject of the complaint live in the same, multi-unit building. Each unit has its own mailbox. Notably, the mailer received by the complainant was addressed to the subject of the complaint, and the subject's unit number, not the complainant's unit number. The subject does not interact with any other occupant of the building, which likely contributes to the complainant not knowing the subject.

There is no evidence to support the allegation that the subject was not domiciled at the address on the mailer. There is no evidence to support the allegation the subject wrongfully voted.

As such, 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

April 17, 2020

Ken Story, Town Clerk
Town of Grantham
300 Route 10 South
Grantham, NH 03753

Dear Clerk Story,

On February 11, 2020, this Office learned from a concerned citizen that local high school students eligible to register to vote in advance of the 2020 Presidential Primary, were being told to retrieve documents if they did not have proof of domicile. Specifically, it was alleged that the Grantham Town Clerk's office required eligible voters to return at a future date and time with proof of domicile from their parents that they were in fact residing at the listed abode.

After receiving this report, this Office immediately contacted Town Moderator Lori McClory on February 11, 2020. We learned from Clerk McClory that you were under the impression that domicile affidavits were no longer in use. After speaking with this Office, Clerk McClory informed you that the domicile affidavits were still in use and applicants must be presented one when they do not possess proof of domicile.

We would like to take an opportunity to review the procedures for voter registration and what to do if a voter does not possess proof of his/her qualifications.

If an applicant for voter registration does not bring proof of domicile, in either paper or electronic form, the applicant must still be allowed to register to vote by completing a Domicile Affidavit. **Do not send applicants away to retrieve documents**.

Similarly, if an applicant for voter registration does not bring a document, in either paper or electronic form, which proves his or her identity, age, or citizenship, the applicant must still be allowed to register to vote by completing a stand-alone Qualified Voter Affidavit. **Do not send applicants away to retrieve documents**.

During a phone conversation that you had with Chief Investigator Richard Tracy on March 30, 2020, you acknowledged that a mistake was made during the 2020 Presidential Primary. Additionally, you told Investigator Tracy you now know to use the domicile affidavit in

the future. While this Office understands that no voters were denied the opportunity to register to vote and to vote, we encourage you to review the above information. We hope this information will prove useful to you.

Please contact this office if you have any questions.

Sincerely,

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

cc: William Christie, Esquire

ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL

JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

April 17, 2020

Timothy Kearns
[redacted]
Litchfield, NH 03052

Re: Alleged Illegal Campaign Activity

Dear Mr. Kearns

On March 1, 2020, we received your complaint alleging that a political publication titled the "Litchfield Voter Guide," was mailed to Litchfield residents without identifying who was responsible for it, contrary to RSA 664:14. On March 10, 2020, you filed a second complaint with the Election Law Unit, in which you expressed your concern about the integrity of the 2020 Town of Litchfield warrant. After careful review, we conclude there has been no violation of New Hampshire's election laws.

In following-up on this matter, we carefully reviewed the information and documents accompanying your complaint and contacted Town Administrator Troy Brown. We were provided with copies of letters addressed to you from Litchfield officials dated March 11 and April 1, 2020.

RSA 659:44-a prohibits public employees from electioneering while in the performance of his or her official duties.

A "public employee" as defined in RSA 273-A:1, IX, means any person employed by a public employer except:

(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.

(emphasis added). In review of the material provided by the Town of Litchfield and yourself, we understand that the Board of Selectmen and School Board are responsible for mailing the Litchfield Voter Guide to residents. Board of Selectmen and School Board members are elected officials who do not meet the definition of "public employee" as defined in RSA 273-A:1, IX and therefore do not trigger the prohibition under RSA 659:44-a.

RSA 664:14 requires all political advertising include the name and address of the individuals or entities 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 reviewing the Litchfield Voter Guide, we conclude that this publication does not violate RSA 664:14. The mailer simply provides the recipient with information on when and where to vote. It does not expressly advocate for the reader to vote in favor of or against a particular candidate or measure. Therefore, it does not constitute a political advertisement within the meaning of the statute, and does not trigger the identification requirements under RSA 664:14. We do note that the first page of the mailer clearly identifies the Town of Litchfield in two websites https://litchfieldnh.gov/ & https://www.litchfieldsd.org/DistrictInformation.aspx .

With respect to your concern for the integrity of the Town's warrant, the Election Law Unit is not responsible for reviewing the language used in writing warrant articles. As noted in the letters provided to you by Litchfield officials, the Department of Revenue Administration (DRA) reviews warrant articles to ensure they are written properly. Litchfield officials also notified you that in addition to the review conducted by DRA, the Litchfield Town Counsel reviewed the warrant prior to its printing on official ballots.

Based on the forgoing, we conclude there has been no violation of New Hampshire's election laws. This matter is now closed. Please feel free to contact me if you have any questions.

Sincerely,

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

Copied to: Orville B. Fitch, Assistant Secretary of State
Troy Brown, Litchfield Town Administrator

ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL

JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

April 21, 2020

Linda Arsenault
[redacted]
Portsmouth, NH 03801

Re: **CEASE AND DESIST ORDER**
Violation of RSA 659:43

Dear Ms. Arsenault:

On February 11, 2020, this Office received a complaint that you entered the Portsmouth, Ward 3 polling place wearing a shirt with "Trump" written on it.

During our inquiry into this matter, we spoke with election officials from Portsmouth, Ward 3, in addition to speaking with you. From the review of this information, we understand the situation as follows.

During the 2020 Presidential Primary, you entered the polling place wearing a "Trump" shirt. A greeter at the polls greeted you, and tried to explain that the law prohibited persons from wearing campaign material at the polling place. The greeter asked if you would cover or remove the article of clothing in question.

You immediately became confrontational and began shouting profanity at the greeter. At this time, due to your conduct, both Moderator Joan Hamblet and Ward Clerk Damon Thomas felt it necessary to join the greeter to try and assist the greeter with calming you down.

You insisted on being shown the law that prohibited your wearing of materials in support of a candidate. Clerk Thomas showed you the Election Procedure Manual, and read the law that governed the situation.

Despite being shown the law as you requested, you continued to shout expletives and began alleging that the Democratic Party makes laws to take away rights. Your behavior reportedly caused a woman and her children to feel as if they could not leave the polling place, as they were afraid to walk by you and exit. Clerk Thomas had to assure the family that it was safe to pass.

While you eventually left, you returned to the polling place, this time carrying the shirt in a manner that the "Trump" writing was prominently displayed. To prevent triggering your confrontational behavior, the election officials allowed you into the polling place with the offending clothing, you voted, and left.

On April 13, 2020, you spoke with Chief Investigator Richard Tracy. During the conversation, you admitted that you wore your "Trump" sweatshirt into the polling place. You argued that you had a right to do so, and you did nothing wrong.

RSA 659:43 states that –

> No person shall distribute, wear, or post at a polling place any campaign material in the form of a poster, card, handbill, placard, picture, pin, sticker, circular, or article of clothing which is intended to influence the action of the voter within the building where the election is being held.

(emphasis added). A person that violates this statute is subject to a civil penalty not to exceed $1,000. RSA 659:43, IV(a).

"The State may reasonably take steps to ensure that partisan discord not follow the voter up to the voting booth, and distract from a sense of shared civic obligation at the moment it counts the most." Minnesota Voters All. v. Mansky, 138 S. Ct. 1876, 1888 (U.S. 2018).

In this case, you entered the polling place with an article of clothing identifying a specific candidate that was on the ballot for the 2020 Presidential Primary election. We conclude that this item constitutes prohibited campaign material, which you brought into the polling place. Therefore, we find that you violated RSA 659:43.

We note that election officials correctly requested that you remove or cover the article of clothing that violated RSA 659:43, showed you the applicable law, and ultimately allowed you to vote despite your persistent non-compliance and intimidating behavior.

In light of our conclusion that you violated RSA 659:43 by wearing campaign materials into the polling place, you are hereby ordered to cease and desist any and all activities which violate this provision in the future. Any future failure to comply with our State's election laws may result in this Office taking legal action as needed to ensure compliance.

Cease and Desist Order Issued
By the Authority of:

GORDON J. MACDONALD
ATTORNEY GENERAL

Nicholas A. Chong Yen

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

cc: Joan Hamblet, Portsmouth Ward 3 Moderator
Damon Thomas, Portsmouth Ward 3 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

April 24, 2020

Bert Spaulding Sr.
[redacted]
Newport, NH 03773

Re: Alleged Illegal Campaign Activity

Dear Mr. Spaulding,

On March 10, 2020, this Office received a report, alleging that you impermissibly removed political signs belonging to the Newport Teachers Association from in front of the Newport Opera House during the Newport Town Election.

In reviewing this allegation, we spoke with witnesses who observed you carrying the Newport Teachers Association signs into the Opera House, after which, the signs were not seen again. We learned that when questioned by School Clerk Robert Scott about the disappearance of the signs, you refused to comment. Chief Investigator Richard Tracy with the Attorney General's Election Law Unit left you two voicemail messages requesting a return call to discuss the allegation, first on April 17, 2020, and again on April 22, 2020. To date you have not returned his call.

However, based on the information obtained through our follow-up, we would like to take this opportunity to review the applicable statute regarding the placement and removal of political advertising.

RSA 664:17 states that –

> No person shall remove, deface, or knowingly destroy any political advertising which is placed on or affixed to public property or any private property except for removal by the owner of the property, persons authorized by the owner of the property, or a law enforcement officer removing improper advertising. Political advertising placed on or affixed to any public property may be removed by state, city, or town maintenance or law enforcement personnel. Political advertising removed prior to election day by

> state, city, or town maintenance or law enforcement personnel shall be kept until one week after the election at a place designated by the state, city, or town so that the candidate may retrieve the items.

(emphasis added). During an election, political advertising must be held or within arms' reach of a campaign worker. If unattended campaign signs or political advertising is observed outside the polling place, this is properly reported to the Moderator. Only individuals authorized by RSA 664:17 may remove political advertising from public and private property.

We encourage you to review the above-referenced statute and ensure to follow the process in the future. Failure to do so may result in a cease and desist order or further enforcement action.

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

Sincerely,

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

cc: Newport Teachers Association, c/o Lisa Ferrigno

ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL

JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

April 27, 2020

Daniel Healey
Derry Town Clerk
14 Manning Street
Derry, NH 03038

Re: Complaint against Project Veritas and Certain Employees

Dear Clerk Healey:

By complaint dated February 24, 2020, you alleged that James O'Keefe and Project Veritas violated RSA 570-A:2. Specifically you allege that Mr. O'Keefe "entered Gilbert H. Hood Middle School on the night of the Presidential Primary with a hidden camera that also recorded audio. He did not inform the greeter at this polling location that she was being audio recorded in violation of NH [RSA] 570-A:2. He has since made the audio/video recording public." The Office of the Attorney General has investigated your complaint to include reviewing the posted video and reviewing the information you provided in your complaint to this Office.

In investigating this matter, this Office considered whether the conduct of Project Veritas and those acting on its behalf constitute a criminal violation of RSA 570-A:2. RSA 570-A:2, I, prohibits the willful interception of an "oral communication" without the consent of all parties to the conversation. RSA 570-A:1, II, defines "oral communication" to mean "any verbal communication uttered by a person who has a reasonable expectation that the communication is not subject to interception, under circumstances justifying such expectation."

After review of the relevant law and evidence, to include a consideration of the location where the recording occurred, this Office has concluded that it cannot bring criminal charges in connection with the recording that forms the basis of your complaint. Based on the available evidence, the State could not sustain its burden to prove that the recording at issue violates RSA 570-A:2.

Thank you for your time and the attention you have given this matter. 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 Calli, Esquire

ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL

JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

April 27, 2020

Michael J. Tierney, Esq.
Wadleigh, Starr & Peters, PLLC
95 Market Street
Manchester, NH 03101

Re: Planned Parenthood Campaign Finance Complaint

Dear Attorney Tierney:

On October 26, 2018, we received your complaint, alleging that Planned Parenthood of Northern New England (or "PPNNE"), Planned Parenthood of New Hampshire Action Fund (or "PPNHAF"), and/or Planned Parenthood of New Hampshire Action Fund PAC (or "PPNHAF PAC") violated New Hampshire's campaign finance laws.

You make four allegations. Each one is discussed in detail below. After careful consideration, we conclude there is a violation of the accurate reporting law for PPNHAF in that: 1. The incorrect date was reported for an independent expenditure in PPNHAF's October 17, 2018 filing; 2. The letters reporting independent expenditures were filed under the wrong entity; and 3. Transactions that did not qualify as an independent expenditure within the meaning of RSA 664:2, XI were reported. Those errors have since been corrected. Other than these three errors, there are no other violations of New Hampshire's election laws.

In reaching this determination, we reviewed the following: your complaint and supporting documentation; a response to your complaint and supporting documentation submitted by the Planned Parenthood entities through their attorney, Paul A. Burkett, Esq.; and filings by PPNHAF and PPNHAF PAC with the Secretary of State's Office. We also spoke with Gray Chynoweth, Kayla Montgomery – Director of Advocacy for PPNHAF, Attorney Burkett, Sabrina Dunlap – Vice President of Public Policy for PPNNE, and Heather Bushey – Chief Financial Officer for PPNNE. The Planned Parenthood entities cooperated fully.

Your complaint makes allegations concerning three entities: PPNNE, PPNHAF, and PPNHAF PAC. PPNNE is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code. PPNHAF is exempt from taxation under Section 501(c)(4) of the Internal

Revenue Code.[1] On September 1, 2018, PPNHAF registered as a Political Advocacy Organization ("PAO") with the Secretary of State under the name, "Planned Parenthood New Hampshire Action Fund (501C4)." Leah Plunkett was identified as its Chair and Lucy Karl was identified as its Treasurer. PPNHAF indicated in its registration that it would make independent expenditures in support of Bill Bolton, Mason Donovan, Jenn Alford-Tester, Gray Chynoweth, Deb Pignatelli, Molly Kelly, and in opposition to Bob Guida, Harold French, Ted Gatsas, and Dave Wheeler. PPNHAF did not use the Secretary of State's electronic campaign finance system for the 2018 election cycle. Instead, it filed paper copies of its reports.

On July 5, 2017, PPNHAF PAC registered as a PAO with the Secretary of State under the name, "Planned Parenthood New Hampshire Action Fund PAC." Sabrina Dunlap was identified as its Chair and Lucy Karl was identified as its Treasurer. PPNHAF PAC indicated in its registration that it would not make independent expenditures during the 2018 election cycle. PPNHAF PAC also filed paper copies of its reports during the 2018 election cycle.

You first allege that "Planned Parenthood appears to have violated RSA 664 by failing to indicate which organization paid for [] $48,150 in 'independent' expenditures." RSA 664:6, IV-a, requires, in part, that, "Any political committee whose independent expenditures, in aggregate exceed $500 shall file an itemized statement with the secretary of state which shall be received by the secretary of state not later than 48 hours after such expenditures are made." The statute also contains other reporting and certification requirements. Your submission includes four letters to Secretary Gardner from "Leah Plunkett, Chair, Planned Parenthood Action Fund," dated September 24, 2018, October 8, 2018, October 17, 2018, and October 19, 2018. The letters report aggregate independent expenditures of $47,650.00 and otherwise contain the information that must be reported in compliance with RSA 664:6, IV-a.

As noted earlier, PPNHAF did not use the electronic campaign finance system. The foregoing independent expenditure reports, submitted in paper form, were inadvertently filed under the wrong PAO, PPNHAF PAC. PPNHAF PAC made no independent expenditures during the 2018 election cycle. The error is understandable inasmuch as the two entities have virtually the same name, share the same physical address (18 Low Avenue, Concord, New Hampshire), and share the same Treasurer (Lucy Karl). Nonetheless, the filing error may have led to confusion. The Secretary of State's electronic system is intended to maximize transparency and to minimize errors such as this. All filing committees and organizations are strongly encouraged to use this system and we have informed Planned Parenthood of this. We have also required PPNHAF to re-file its reports of receipts and expenditures with the correct information.

You next allege that PPNHAF's "'independent' expenditures do not appear to actually be independent but rather coordinated with the candidate." In support of this allegation, you submitted two advertisements depicting candidates Mason Donovan and Gray Chynoweth with, respectively, a Planned Parenthood poster and a Planned Parenthood shirt. RSA 664:2, XI, defines an independent expenditure as made "without cooperation or consultation with any

[1] The U.S. Internal Revenue Service regulates political and advocacy activities by entities exempt from taxation under the Internal Revenue Code. The New Hampshire Attorney General's Office does not have enforcement authority over such entities.

candidate, or any authorized committee or agent of such candidate, and which are not made in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate."

Our review established that Mr. Donovan's photo was taken at an event hosted by Planned Parenthood. However, the use of this and other photos taken at the event was neither discussed nor coordinated with Mr. Donovan or other attendees. Mr. Chynoweth took the photo of himself in the Planned Parenthood shirt without the knowledge of PPNHAF. Mr. Chynoweth stated that PPNHAF did not ask for the photo, and his campaign manager voluntarily shared it with PPNHAF. There was no agreement as to how or if such a photo would be used.

As a general matter, PPNHAF told us that it has a practice of maintaining a photo bank of images, which it owns, to prevent potential copyright issues. Additionally, photos may be used in a variety of contexts including educational events, and not solely for electoral work. As such, PPNHAF makes the determination of when and if to use the photos without any input or coordination with the depicted candidates. There is no basis to conclude that there was a violation of the campaign finance laws with respect to PPNHAF's use of the photos of candidates Donovan and Chynoweth.

Your third allegation is that the "c4 PAO [PPNHAF] appears to have violated RSA 664:4(V) by accepting contributions from the c3 and c4 organizations in excess of the $5,000 limit." This Office has previously held that New Hampshire cannot enforce contribution restrictions against political committees that only make independent expenditures. *See* Letter to William M. Gardner from Matthew Mavrogeorge, dated August 1, 2012; *see also Citizens United v. Federal Elections Commission*, 558 U.S. 310 (U.S. 2010) (holding that federal statute barring independent corporate expenditures for electioneering communications violated First Amendment).

We understand that the above-referenced letter predated the definition of "political advocacy organizations" under RSA 664:2, which was not added until July 28, 2014. However, we see no basis under the statute to make a distinction between a political committee that only makes independent expenditures, and a PAO that does the same. PPNHAF made only independent expenditures. Accordingly, we conclude that the contribution limit under RSA 664:4, V cannot be enforced against PPNHAF.

Finally, you allege "where the ultimate funding for these campaign contributions are coming from [PPNNE] which is a 501(c)(3) organization, [PPNNE] must register as a Political Advocacy Organization as required by RSA 664:3-a and RSA 664:2, XXII." A PAO is an entity that spends $5,000 or more in a calendar year "to pay for a communication that is functionally equivalent to express advocacy because, when taken as a whole, such communication is likely to be interpreted by a reasonable person only as advocating the election or defeat of a clearly identified candidate or candidates . . ." In support of your complaint, you state that PPNNE provided $422,192 to PPNHAF and PPNHAF, in turn, made independent expenditures. You have provided an Internal Revenue Service Form 990 Schedule which reflects a grant in that amount from PPNNE to PPNHAF in 2017.

Your claim fails because the grant of funds from PPNNE to PPNHAF does not constitute "a communication that is functionally equivalent to express advocacy." RSA 664:2, XXII. Our review established that PPNHAF did receive grant funds from PPNNE, but those funds were intended for non-electoral educational and advocacy activities. Educational and advocacy activities would not constitute "a communication that expressly advocates for the election or defeat of a clearly identified candidates or candidate." RSA 664:2, XI. Based on the forgoing, we conclude that PPNHAF reported its qualifying receipts and expenditures in compliance with New Hampshire's election laws. We further conclude that PPNNE does not have to register as a PAO.

This Office concludes that the violations of New Hampshire's election laws, the erroneous information filed in PPNHAF's reports and misfiling of the independent expenditures reports, will be rectified by amended filings. Based on the receipt of those re-filed report and the fact that no additional election law violations were found, this matter is now closed.

Sincerely,

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

cc: The Honorable William M. Gardner, Secretary of State
Paul A. Burkett, Esquire

ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL

JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

April 27, 2020

Christopher Jay
[redacted]
Manchester, NH 03103

Re: Planned Parenthood Campaign Finance Complaint

Dear Mr. Jay:

On October 26, 2018, we received your complaint, alleging that Planned Parenthood of Northern New England (or "PPNNE"), Planned Parenthood of New Hampshire Action Fund (or "PPNHAF"), and/or Planned Parenthood of New Hampshire Action Fund PAC (or "PPNHAF PAC") violated New Hampshire's campaign finance laws.

Your make two allegations. Each one is discussed in detail below. After careful consideration, we conclude there is a violation of the accurate reporting law for PPNHAF in that: 1. The incorrect date was reported for an independent expenditure in PPNHAF's October 17, 2018 filing; 2. The letters reporting independent expenditures were filed under the wrong entity; and 3. Transactions that did not qualify as an independent expenditure within the meaning of RSA 664:2, XI were reported. Those errors have since been corrected. Other than these three errors, there are no other violations of New Hampshire's election laws.

In reaching this determination, we reviewed the following: your complaint and supporting documentation; a response to your complaint and supporting documentation submitted by the Planned Parenthood entities through their attorney, Paul A. Burkett, Esq.; and filings by PPNHAF and PPNHAF PAC with the Secretary of State's Office. We also spoke with Gray Chynoweth, Kayla Montgomery – Director of Advocacy for PPNHAF, Attorney Burkett, Sabrina Dunlap – Vice President of Public Policy for PPNNE, and Heather Bushey – Chief Financial Officer for PPNNE. The Planned Parenthood entities cooperated fully.

Your complaint makes allegations concerning three entities: PPNNE, PPNHAF, and PPNHAF PAC. PPNNE is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code. PPNHAF is exempt from taxation under Section 501(c)(4) of the Internal

Revenue Code.[1] On September 1, 2018, Planned Parenthood registered as a Political Advocacy Organization ("PAO") with the Secretary of State under the name, "Planned Parenthood New Hampshire Action Fund (501C4)." Leah Plunkett was identified as its Chair and Lucy Karl was identified as its Treasurer. PPNHAF indicated in its registration that it would make independent expenditures in support of Bill Bolton, Mason Donovan, Jenn Alford-Tester, Gray Chynoweth, Deb Pignatelli, Molly Kelly, and in opposition to Bob Guida, Harold French, Ted Gatsas, and Dave Wheeler. PPNHAF did not use the Secretary of State's electronic campaign finance system for the 2018 election cycle. Instead, it filed paper copies of its reports.

On July 5, 2017, PPNHAF PAC registered as a PAO with the Secretary of State under the name, "Planned Parenthood New Hampshire Action Fund PAC." Sabrina Dunlap was identified as its Chair and Lucy Karl was identified as its Treasurer. PPNHAF PAC indicated in its registration that it would not make independent expenditures during the 2018 election cycle. PPNHAF PAC also filed paper copies of its reports during the September 2018 election cycle.

You first allege that PPNNE unlawfully granted $422,192 to PPNHAF. In support, you have provided an Internal Revenue Service Form 990 Schedule which reflects a grant in that amount from PPNNE to PPNHAF in 2017. Your claim fails because the grant of funds from PPNNE to PPNHAF does not constitute "a communication that is functionally equivalent to express advocacy." RSA 664:2, XXII. Our review established that PPNHAF did receive grant funds from PPNNE, but those funds were intended for non-electoral educational and advocacy activities. Educational and advocacy activities would not constitute "a communication that expressly advocates for the election or defeat of a clearly identified candidates or candidate." RSA 664:2, XI. Based on the forgoing, we conclude that PPNHAF has reported its qualifying receipts and expenditures in compliance with New Hampshire's election laws.

You next allege that Planned Parenthood and its New Hampshire political advocacy organizations have failed to report or otherwise obscured independent expenditures. RSA 664:6, IV-a, requires, in part, that, "[a]ny political committee whose independent expenditures, in aggregate exceed $500 shall file an independent statement with the secretary of state which shall be received by the secretary of state no later than 48 hours after such expenditures are made." The statute also contains other reporting and certification requirements. Your submission includes four letters to Secretary Gardner from "Leah Plunkett, Chair, Planned Parenthood Action Fund," dated September 24, 2018, October 8, 2018, October 17, 2018, and October 19, 2018. The letters report aggregate independent expenditures of $47,650.00 and otherwise contain the information that must be reported in compliance with RSA 664:6, IV-a.

As noted earlier, PPNHAF did not use the electronic campaign finance system. The foregoing independent expenditure reports, submitted in paper form, were inadvertently filed under the wrong PAO, PPNHAF PAC. PPNHAF PAC made no independent expenditures during the 2018 election cycle. The error was understandable inasmuch as the two entities have virtually the same name, share the same physical address (18 Low Avenue, Concord, New Hampshire), and share the same Treasurer (Lucy Karl). Nonetheless, the filing error may have

[1] The U.S. Internal Revenue Service regulates political and advocacy activities by entities exempt from taxation under the Internal Revenue Code. The New Hampshire Attorney General's Office does not have enforcement authority over such issues.

led to confusion. The Secretary of State's electronic system is intended to maximize transparency and to minimize errors such as this. All filing committees and organizations are strongly encouraged to use this system and we have informed Planned Parenthood of this. We have also required PPNHAF to re-file its independent expenditures reports with the correct information.

This Office concludes that the violations of New Hampshire's election laws, the erroneous information filed in PPNHAF's reports and misfiling of the independent expenditures reports, will be rectified by amended filings. Based on the receipt of those re-filed report and the fact that no additional election law violations were found, this matter is now closed.

Sincerely,

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

cc: The Honorable William M. Gardner, Secretary of State
Paul Burkett, Esquire

ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL

JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

April 29, 2020

[redacted]
Thornton, NH 03285

Re: Alleged Wrongful Voting

Dear [redacted]

On February 11, 2020, this Office received a report, alleging that during the 2020 Presidential Primary, you wrongfully voted by voting once on the Republican ballot, then a second time on the Democratic ballot. Based on available evidence it does not appear you voted twice during the same election. Nonetheless, we strongly encourage you to review the below information and follow the appropriate procedures in the future.

In reviewing this allegation, we spoke with the election officials who were present when you arrived including: the ballot clerks, the supervisors of the checklist, the town clerk, the selectboard members who oversaw the ballot counting machine, and the moderator.

From the statements of these witnesses, this Office determined that you were only handed a single ballot, which you marked and cast. There is no evidence to support that you were observed having twice approached the ballot counting machine, or that you even received a second ballot.

However, through this investigation, we understand that an incident arose from your apparent frustration and misunderstanding of the process to change back to undeclared status.

During the 2020 Presidential Primary, after approaching a ballot clerk, you learned that you were listed as a registered Republican, yet demanded a Democratic ballot. The ballot clerk attempted to explain to you that for the Primary, since you were listed as a registered Republican, the clerk could only give you a Republican ballot. The clerk further explained that your listed party affiliation was likely due to you voting Republican during the 2016 Presidential Primary.

You rejected the ballot clerk's explanation and walked over to the supervisors of the checklist to argue that you were entitled to a Democratic ballot. Like the ballot clerk, the

supervisors informed you that a voter listed as a registered Republican during the Primary must take a Republican ballot.

Following your argument with the supervisors, you returned to the ballot clerks' table, where you informed the clerks that you and the supervisors resolved the issue, and you were permitted to vote on the Democratic ballot. Without verifying this with the supervisors, the ballot clerks gave you a Democratic ballot, which you marked and cast.

Typically, during a Primary Election, an undeclared voter may appear on Election Day and declare an affiliation and vote in that party's primary. After casting his or her ballot, the voter can sign a return to undeclared signature list to return to undeclared status. If a voter does not return to undeclared status on Election Day, he or she may complete a party change form at the town or city clerk's office or at a session of the supervisors of the checklist following the election.

If the undeclared voter does not change back to undeclared status on or following the Primary Election Day, he/she will be listed as a registered member of the party whose ballot he/she chose.

If a person's party membership has been registered before, the person shall only be given the ballot of the party with which the person is registered. RSA 659:14. (emphasis added).

RSA 659:34, I(e) prohibits a voter from voting for any office or measure at an election if such person is not qualified to vote as provided in RSA 654. Party registration and the restrictions on changing party affiliation are elements of RSA 654. See RSA 654:15; RSA 654:34. A person who violates RSA 659:34, I(e) may be subject to a civil penalty or criminal prosecution.

In this case, election records show that during the February 9, 2016 Presidential Primary election you voted on a Republican ballot.

Thornton's Undeclared Voter Re-Registration list from the February 2016 Presidential Primary lists your name, but does not contain your signature. Therefore, after voting on a Republican ballot during the last Presidential Primary, you did not change back to undeclared status.

Election officials correctly explained to you that since the checklist listed you as a registered Republican, they could only give you a Republican ballot. While we acknowledge that the ballot clerks should have confirmed the situation with the supervisors before issuing you a Democratic ballot, your behavior and misrepresentations caused confusion.

Your outburst reportedly caused some voters at the polling place to feel uncomfortable, and required the involvement of multiple election officials, who attempted to reason with you and de-escalate the situation.

We encourage you to review the above-referenced information and follow the process in the future. Failure to do so may result in a cease and desist order or further enforcement action.

This matter is now 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: Donna Monti, Thornton Town Clerk
Town of Thornton Supervisors of the Checklist
Bob McCloud, Thornton Moderator

ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL

JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

May 20, 2020

Randy Walker, Moderator
Town of Wolfeboro,
26 North Main Street
Wolfeboro, NH 03894

Dear Moderator Walker,

On March 20, 2020, Town of Wolfeboro Supervisor of the Checklist Frederick Fernald, notified the Attorney General's Office about a resident who may have voted twice during the February 11, 2020, Presidential Primary. Supervisor Fernald explained to Chief Investigator Richard Tracy that [redacted] Wolfeboro, was checked off as voting absentee during the 2020 Presidential Primary. After the election, Supervisor Fernald was not able to enter [redacted] information into ElectioNet. Through his follow-up, Supervisor Fernald learned that [redacted] same-day registered and voted in Durham, New Hampshire on February 11, 2020.

As part of Investigator Tracy's follow-up he contacted Town Clerks, Patricia Waterman (Wolfeboro) and Ann Shump (Durham), who provided Investigator Tracy with documents related to [redacted] voter registration and voting. These documents indicate that [redacted] Wolfeboro, registered to vote in Wolfeboro on January 9, 2020, and requested an absentee ballot. The documents also show that [redacted] same-day registered and voted in-person in Durham on February 11, 2020.

Investigator Tracy spoke with [redacted] and his parents, whose recollection is that there was concern that [redacted] s absentee ballot would not arrive in Wolfeboro in time to be counted. As such, [redacted] chose to rip up the absentee ballot and vote in Durham where he was living while attending the University of New Hampshire.

Investigator Tracy made arrangements with Clerk Waterman to inspect the absentee envelopes and applications that were sealed and stored in a secure room located in the lower level of the Wolfeboro Town Hall. During the afternoon of May 7, 2020, in the company of Clerk Waterman, Investigator Tracy inspected the ballot boxes stored there since the February 11, 2020, Presidential Primary. None of the boxes were marked on the outside to indicate which box or boxes contained the absentee envelopes and applications. Investigator Tracy ultimately found the absentee envelopes stored in two separate boxes. Investigator Tracy noted that the envelopes and applications were in a state of disarray and no semblance of order. Several of the applications were separated from the corresponding envelope.

Clerk Waterman informed Investigator Tracy that according to their records for the Presidential Primary Election, 304 residents of Wolfeboro voted absentee. After counting the envelopes twice at Town Hall and the following day at the Attorney General's office, Investigator Tracy was able to attach the loose applications to the corresponding envelopes and put all of them in order. He accounted for 295 absentee envelopes and/or applications, which is 9 less than the records indicate. Investigator Tracy contacted Patricia Piecuch at the Help America Vote Act (or "HAVA") Help Desk, who informed Investigator Tracy that the Town of Wolfeboro had 6 absentee ballots rejected because they arrived after the day of the election. Those 6 ballots would count towards the total number absentee voters which brought the total to 301, which is 3 less that the original total reported of 304. With further assistance from HAVA, Investigator Tracy learned that 3 additional absentee ballots arrived on the day of the election. Investigator Tracy was not able to find those 3 absentee envelopes and/or applications with the 295 absentee envelopes and applications he retrieved from the Wolfboro Town Hall. However, the 3 missing absentee ballots reconciles with the reported total of 304 absentee voters Wolfeboro recorded for the February 11, 2020 Presidential Primary. It does not account for why those 3 envelopes and/or applications were not with the others.

In light of the forgoing, it is important to stress the importance of the ballot counting procedure and reconciling the number of ballots cast with the number of voters recorded as voting on the checklist. Guidance for this process can be found on pages 63-65 in the 2018-2019, New Hampshire Election Procedure Manual. We encourage you to review this material with your election officials to reinforce the appropriate procedures to ensure accuracy in both the counting of all ballots and marking of the checklist.

With respect to Supervisor Fernald's report, it appears more likely than not election official error caused [redacted] to be checked off as having voted absentee during the February 11, 2020, Presidential Primary. [redacted] absentee envelope and application was not located in either of the boxes retrieved from Wolfboro Town Hall. Therefore, this Office concludes there is insufficient evidence to support a finding that [redacted] wrongfully voted during the 2020 Presidential Primary.

Thank you for the service that you and your election staff provide for the residents of Wolfeboro.

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

Sincerely,

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

Copied to: Patricia Waterman, Town Clerk
Frederick Fernald, Supervisor of the Checklist

ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL

JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

September 22, 2020

Beth Hunter
Derry Municipal Center
14 Manning Street
Derry, NH 03038

Re: Electioneering and Election Officers

Dear Ms. Hunter:

On February 13, 2020, this Office was notified of your conversation during the 2020 Presidential Primary with two individuals who asked you for guidance on who to vote for. During the conversation, you told the two individuals that voting for any of the Democratic candidates would be wise. During the 2020 Presidential Primary, and the time period of your conversation with these two individuals, you were at the Gilbert H Middle School in Derry for Districts 1 & 4, functioning in the role of a greeter. You also had been sworn in as an Assistant Moderator on that day.

We understand you received training regarding the conduct of greeters at the polls. During the training, you were notified that, as an election official, you must remain politically neutral in words and actions. The proper procedures for elections officers at the polling place are as follows:

RSA 659:44 states that "[n]o election officer shall electioneer while in the performance of his official duties." The term "electioneer" means to act in any way specifically designed to influence the vote of a voter on any question or office. RSA 659:44.

RSA 652:14 defines an "election officer" as "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."

In speaking with Derry Moderator Mary Till, we understand you took an oath of office and were appointed as an Assistant Moderator for the 2020 Presidential Primary. As such, you constitute an election officer within the meaning of the statue.

We also understand that when asked whether it was wise to vote for two specific candidates, you answered that it was wise to vote for any Democrat. While this comment was likely a casual remark made in response to a pointed question, it could be construed as electioneering under RSA 659:44.

Election officers must be cautious while acting in their official capacity at the polling place. Election officers must not engage in conduct that could be construed as specifically designed to influence the vote of a voter. Failure to do so may lead to allegations of improper influence by election officers over an election.

We hope this information proves helpful to you. 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: Mary Till, Derry Town Moderator

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GORDON J. MACDONALD
ATTORNEY GENERAL

JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

September 22, 2020

Thomas A. Tardif
[redacted]
Laconia, NH 03246

Re: Laconia City Council and/or City Manager (2020141522)

Dear Mr. Tardif:

On January 6, 2020, this Office received your complaint regarding the Laconia City Council (or "the Council") and the Laconia Conservation Commission (or "the Commission") alleging abuse of office. Specifically, that this abuse of office stems from the Council and Commission appropriating funds to purchase two parcels of land on Pickerel Pond Road in a non-public session. Since the filing of your initial complaint, you have provided this Office with additional information, which we received on the below dates and have carefully reviewed. This includes:

- January 7, 2020 – A Laconia Sun news article regarding your complaint;
- February 5, 2020 – An amended complaint alleging that there were no public hearings by the Council or Commission prior to the appropriations to purchase parcels on Pickerel Pond Road or 18 Wilson Court.
- February 24, 2020 – A two-part letter on your allegations of Laconia officials' abuse of power involving the non-public meetings to appropriate funds to purchase "a home on Wilson Court and two additional land purchases on Pickerel Pond;"
- July 11, 2020 – An updated email containing information that the Commission's legal notice was not truthful because "[n]othing in any notice or agenda cited the meeting was in regards to any new appropriation of [Commission] Funds for any amount;"
- July 12, 2020 – Additional information concerning the ownership and later purchase of the "Pickeral Pond parcel;"
- July 23, 2020 – An email containing additional information concerning the City of Laconia's purchase of Pickerel Pond and the appropriation/expending of funds without appropriate public notice;
- September 1, 2020 – Your memorandum regarding "ABUSE OF OFFICE" and alleging that the vote by Laconia's governing body to purchase church property was illegal;

- September 11, 2020 – A complaint alleging that Laconia officials unlawfully had a "second Contingency line item account listing XYZ as a purpose" and further alleging that the grant of $700,000 was for an unlawful secret purpose;
- September 17, 2020 – Additional information regarding the failure of the Commission to conduct due diligence prior to purchasing the two parcels of land on Pickerel Pond Road; and
- September 18, 2020 – Additional information regarding the appropriation of public money.

In addition to the information you provided, this Office also reviewed a response to your complaint from counsel to the City of Laconia, which is enclosed.

Upon review of this information, it is clear that the source of this complaint stems from allegations that Laconia officials failed to comply with applicable appropriation and municipal budget law. The subject of this complaint is outside the enforcement authority of the Election Law Unit.

Moreover, to the extent that this matter involves an alleged failure to comply with RSA 91-A (Right-to-Know law), enforcement of this statute is similarly outside the enforcement authority of the Election Law Unit.

If you would like to pursue this matter further, we encourage you to consult with private counsel with respect to the allegation of the Right-to-Know law violation. Private counsel may also provide legal advice on how you can further address the alleged failure of Laconia officials to follow applicable appropriation and municipal budget law. This matter is closed.

Sincerely,

Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
(603) 271-3650
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Enclosure
cc: Laura Spector-Morgan, Laconia City Counsel

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ATTORNEY GENERAL

JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

September 22, 2020

Michael Lewis, Esq.
1 Capitol Plaza
Concord, NH 03302-1500

Re: Alleged Illegal Campaign Activity (2020141681)

Dear Attorney Lewis:

On February 11, 2020, this Office received a complaint involving your client, United States Congresswoman Ann McLane Kuster. The complaint alleged that based on a video posted using Twitter that day, Congresswoman Kuster engaged in impermissible electioneering inside a polling place contrary to RSA 659:43. This Office concludes that RSA 659:43 applies to Congresswoman Kuster, and requests that you review the statute with your client to reinforce her understanding and compliance.

RSA 659:43 states in relevant part that –

> No person shall distribute, wear, or post at a polling place any campaign material in the form of a poster, card, handbill, placard, picture, pin, sticker, circular, or article of clothing which is intended to influence the action of the voter within the building where the election is being held.

This statute applies to any person at a polling place, and does not recognize an exception for elected officials. As such, this statute applies to Congresswoman Kuster.

In following-up on this complaint, this Office reviewed the Twitter post containing the video in question, as well as a response to the complaint you filed on behalf of Congresswoman Kuster. The video in question appears to have been filmed inside an unidentified New Hampshire polling location. In the video, Congresswoman Kuster states –

> "Good morning New Hampshire, it's Presidential Primary Day, and I just voted for Pete Buttigieg, and I feel great about it. I hope you will too."

The video also depicts Congresswoman Kuster wearing a yellow button with the words "Women for Pete."

We reviewed your response, and while you have attempted to apply the decision in Minnesota Voters Alliance v. Mansky, we conclude that Manksy is distinguishable from the instant case and does not apply in the situation involving Congresswoman Kuster. 138 S. Ct. 1876 (2018).

In Mansky, the U.S. Supreme Court faulted Minnesota for not defining the expansive term "political" and for failing to give election judges objective, workable standards to determine what was "political" and thus barred under the apparel ban. 138 S. Ct. at 1891.

Unlike Minnesota's apparel ban in the Manksy case, New Hampshire's law – RSA 659:43 – is more narrowly tailored. The prohibition applies only to campaign material, which is intended to influence how a voter marks his or her ballot in that election.[1]

In the situation involving the complaint against Congresswoman Kuster, the Congresswoman wore a button that displayed the message "Women for Pete." The button's message with its unique "Pete" logo was clearly advocating in favor of Pete Buttgieg, a candidate on the ballot during the February 2020 Presidential Primary, who had been endorsed by Congresswoman Kuster.

Based on the forgoing, this Office concludes that Congresswoman Kuster violated the prohibition on wearing campaign material inside a polling place, under RSA 659:43. Please inform your client regarding future compliance with RSA 659:43 and the electioneering standards outlined in the New Hampshire Election Procedure Manual: 2020-2021. Failure to comply with RSA 659:43 in the future could result in enforcement action.

This matter is closed.

Sincerely,

Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
(603) 271-3650
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[1] See New Hampshire Election Procedure Manual: 2020-2021 Pgs. 248-249, "This prohibition applies only to those candidate, issues, or parties that appear on the ballot for that election."

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ATTORNEY GENERAL

JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

September 28, 2020

Representative Doris Hohensee
[redacted]
Nashua, NH 03064

Re: Nashua Teachers' Union

Dear Representative Hohensee:

On October 30, 2019, you contacted this Office regarding alleged violations by the Nashua Teachers' Union's (NTU) Committee on Political Education (COPE). Specifically, you alleged that the COPE engaged in impermissible electioneering contrary to RSA 659:44-a. You further alleged that the COPE failed to file campaign finance reports in accordance with city ordinances. Based on our review, we conclude there is no violation of New Hampshire's election laws.

In reaching this determination, we reviewed your complaint and supplemental information you provided on November 7 and 18, 2019. We also reviewed a response to your complaint by NTU counsel, which counsel was unable to submit to this Office until September 21, 2020.

With respect to allegations of impermissible electioneering, you cited the following conduct:

1. Emails sent by NTU President Adam Marcoux to staff at Nashua High School during school hours, using district equipment, and containing a link to the NTU-COPE's website listing its political candidate endorsements; and
2. NTU leadership handed out political literature during a meeting at an elementary school, before the start of school.

RSA 659:44-a states that –

> 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.

The emails sent by President Marcoux were distributed using his private computer. When he sent the emails, President Marcoux was serving full-time in the capacity as Union President, and was on a leave of absence from his role as an employee of the Nashua School District. The emails that are the subject of your complaint were neither sent by a public employee nor sent using government property or equipment. Therefore, we conclude that President Marcoux's sending of the emails does not trigger the prohibition under RSA 659:44-a.

We understand that, during the meeting referenced in your complaint, none of the NTU representatives in attendance were performing their official duties. As you referenced, the meeting took place before the start of school. Additionally, the political literature handed out during the meeting had been printed by NTU equipment and did not use any of the resources from the school. The content of the "political literature" you identified was actually Union education materials, intended for and provided to NTU members only. Based on the forgoing, we conclude that the meeting inside the school and the distributed literature would not trigger the prohibition under RSA 659:44-a because the individuals present were not performing their official duties. Furthermore, the meeting does not constitute "electioneering" within the meaning of this statute. Educational information disseminated among Union members on the legislative and political process is not "specifically designed to influence the vote of a voter on any question or office." RSA 659:44-a, III.

Finally, with respect to your allegations that the NTU failed to comply with city ordinances governing campaign finance, city ordinances are enforced locally and are outside the enforcement authority of this Office.

Sincerely,

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

cc: Terri D. Donovan, Counsel for Nashua Teachers Union

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ATTORNEY GENERAL

JANE E. YOUNG
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October 2, 2020

Patricia G. Conway, County Attorney
Rockingham County Attorney's Office
PO Box 1209
Kingston NH 03848-1209

Re: Coleman McDonough (2020143410)

Dear County Attorney Conway:

After this Office's review of this matter involving allegations of election law violations, we conclude that the statute of limitations has expired on October 10, 2013, for the misdemeanor offenses and November 6, 2018, for the felony offense. There is no applicable tolling provision. Thus no criminal charges may be brought.

As a result, this matter is closed.

Sincerely,

Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
(603) 271-3650
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cc: Chief Timothy Crowley, Atkinson Police Department

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ATTORNEY GENERAL

JANE E. YOUNG
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October 14, 2020

Anne Eden Evins
c/o James Rosenberg, Esq.
Shaheen & Gordon, PA
PO Box 2703
Concord, NH 03302-2703

Re: Domicile in New Hampshire (2019137837)

Dear Dr. Evins:

On September 30, 2020, this Office spoke with your attorney, James Rosenberg, who notified us that you are no longer domiciled in Hanover, New Hampshire. You previously used this domicile in Hanover to register to vote and voted during the November 8, 2016 election.

RSA 654:1 explains that every inhabitant of New Hampshire, having a single established domicile for voting purposes, shall have a right to vote.

"Domicile" is defined as that one place where a person, more than any other place, has "established a physical presence and manifests an intent to maintain a single continues presence for domestic, social, and civil purposes relevant to participating in democratic self-government." RSA 654:1.

Attorney Rosenberg, has indicated that you are no longer domiciled in New Hampshire. Additionally, Attorney Rosenberg informed this Office that, as a result of relinquishing your domicile in New Hampshire, you understand you may no longer vote in this State.

Please be advised, under RSA 659:34, I(e), it is a violation of New Hampshire's election laws to vote for any office or measure at an election if you are not qualified to vote as provided in RSA 654. RSA 659:34, II indicates that a violation of this provision is a class B felony.

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

Sincerely,

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