

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF JUSTICE**

SENATE PUBLIC AND MUNICIPAL AFFAIRS COMMITTEE

HOUSE ELECTION LAW COMMITTEE

**Election Law Complaint Status Report
Submitted Pursuant to RSA 7:6-c**

Reporting Period July 1, 2012 – December 31, 2012

Prepared by:

Michael A. Delaney
Attorney General
Anne M. Edwards
Associate Attorney General
Stephen G. LaBonte
Assistant Attorney General
Civil Bureau
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 designates the Attorney General to enforce all election laws in New Hampshire. Pursuant to RSA 7:6-c, II, (a), the Attorney General is pleased to submit to the New Hampshire House of Representatives and the Senate the biannual rolling report on the status of all complaints of alleged violations of election laws received. This report includes a summary of complaints received during the six-month period beginning on July 1, 2012 through December 31, 2012. Likewise, included for each complaint are the results of the investigation and actions taken as a result of the investigation, provided herein as described by RSA 7:6-c, II(c).

TITLE I

THE STATE AND ITS GOVERNMENT

CHAPTER 7

ATTORNEYS GENERAL, DIRECTOR OF CHARITABLE TRUSTS, AND COUNTY ATTORNEYS

The Attorney General

Section 7:6-c

7:6-c Enforcement of the Election Laws. –

I. Upon receipt of a signed written complaint, or upon his or her own motion, the attorney general may in his or her discretion, conduct investigations to determine whether any violation of the election laws has occurred and may prosecute anyone responsible for such a violation. In conducting an investigation under this section the attorney general may enlist the aid of the county attorneys, the state police, and other public officers. In the exercise of his or her powers and duties under this section, the attorney general may hold hearings and require the attendance of individuals by the use of subpoena and may require the production of books, documents, records, and other tangible goods by use of subpoena duces tecum. Any testimony required by the attorney general at a hearing which he or she is empowered to hold under this section shall be given under oath. The attorney general shall maintain records of complaints and investigations of alleged violations of the election laws.

II. (a) Beginning January 31, 2013, the attorney general shall, at least once during every 6-month period, provide a rolling report to the general court on the status of all complaints of alleged violations of the election laws received. The attorney general shall submit the report to the standing committees of the senate and house of representatives with jurisdiction over election law.

(b) The report shall include, but not be limited to the following:

(1) A summary of complaints received during the preceding 6 months, or during the period since the previous report if such period is less than 6 months, including the number of complaints categorized by type of complaint and month received.

(2) For each complaint investigated, the results of the investigation and a description of actions taken following the investigation.

(3) For each complaint not investigated, an explanation of why the complaint was not investigated.

(c) The requirements of subparagraph (b)(2) or (b)(3) may be satisfied by including with the report, for the complaint described, a closure letter, settlement agreement, cease and desist order, or complaint filed with a court, or any other official communication.

Source. 1971, 314:1, eff. Aug. 24, 1971. 2012, 95:1, eff. May 29, 2012.

SECTION I – SUMMARY OF COMPLAINTS RECEIVED

RSA 7:6-C, II(a) requires that the Attorney General, at least once every 6 month period, provide a rolling report to the general court on the status of all complaints of alleged violations of election law received. The Attorney General is to submit the report to the Standing Committees of Senate and House Representatives with jurisdiction over election laws.

Complaints Received	July 2012	Aug 2012	Sep 2012	Oct 2012	Nov 2012	Dec 2012	Total Complaints July-Dec
Absentee Ballot			1	2	2		5
Domicile		2		2	3		7
Electioneering		1	1	1	2		5
Misc.		4	4	8	11	1	28
Party Affiliation			4				4
Phone/Fax System			1		1		2
Political Advertising		1	3	5	3		12
Political Signs		3	2	4			9
Pre-recorded Political Message	1	1			2		4
Push-Poll		3	5	1	3		12
Registration w/Sec of State		1	7				8
UOCAVA		1	1				2
Voter Fraud			3	2	9	2	16
Voter Identification			2		1		3
Voter Registration			7	1	4		12
Voter Suppression			5				5
Voting Machines			3		1		4
MONTHLY TOTALS	1	17	49	26	42	3	138

<u>CODE</u>		
<u>Complaint</u>	<u>RSA</u>	<u>Title</u>
Absentee ballot	RSA 657:1, 4, 19	Absentee voting
Domicile	RSA 654:1	Voters; Office Holder
Electioneering	RSA 659:43	Distributing campaign materials at polling place
Electioneering	RSA 659:44	Electioneering at polling place
Misc.	*	See below
Party affiliation	RSA 659:14	Special provisions for State and Presidential primary elections; see also RSA 654:34
Party affiliation	RSA 654:34	Change of registration
Political Advertising	RSA 664:14	Signature, identification, and lack of authorization
Political Signs	RSA 664:17	Placement and removal of political advertising
Pre-recorded political message	RSA 664:14-a	Pre-recorded political message
Push-Poll	RSA 664:16-a	Identification required
Register with Secretary of State	RSA 664:3	Registration of political committees
UOCAVA	RSA 657:19	Sending ballots to UOCAVA voters
Voter fraud	RSA 659:34	Wrongful voting; penalties for voter fraud
Voter identification	RSA 659:13	Obtaining a ballot
Voter registration	RSA 654:7-19	General, Polling Place, Absentee
Voter suppression	RSA 659:40	Bribing, intimidation, suppression
Voting machines	RSA 656:42	Rules

* This miscellaneous category contains alleged violations that occurred only once during the reporting period. This category includes, but is not limited to: elected to incompatible offices (RSA 671:18); appointment of a challenger (RSA 666:4); write-in votes not reported (RSA659:73).

**SECTION II – RESULTS OF COMPLAINTS INVESTIGATED
AND DESCRIPTION OF ACTIONS TAKEN**

A) RESULTS OF EACH COMPLAINT INVESTIGATED

Complaint	# Complaints Received	Complaints Not Investigated	Complaints Investigated	Open Matters	Matters Closed
Absentee Ballot	5	0	5	5	0
Domicile	7	0	7	4	3
Electioneering	5	0	5	4	1
Misc.	28	0	28	23	5
Party Affiliation	4	0	4	3	1
Phone/Fax System	2	0	2	1	1
Political Advertising	12	0	12	9	3
Political Signs	9	0	9	6	3
Pre-Recorded Calls	4	0	4	4	0
Push-Poll	12	0	12	12	0
Register with Sec. of State	8	0	8	8	0
UOCAVA	2	0	2	1	1
Voter Fraud	16	0	18	15	1
Voter Identification	3	0	2	1	2
Voter Registration	12	0	12	4	8
Voter Suppression	5	0	5	4	1
Voting Machines	4	0	4	1	3
TOTALS	138	0	138	105	33

B) DESCRIPTION OF ACTIONS TAKEN ON COMPLAINTS DURING THE REPORTING PERIOD

For matters closed during the reporting period, attached please find a closer letter, settlement agreement, cease and desist order or complaint filed with a court or other official communication pursuant to RSA 7:6-c, II(c).

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

LaBonte, Stephen G

From: Mavrogeorge, Matthew
Sent: Monday, August 13, 2012 3:56 PM
To: kladd@SOS.STATE.NH.US
Cc: Boffetti, James
Subject: Ballot Law Commission referral



Judy Wallick.pdf

Karen, attached is a letter that our office received that should go to the Ballot Law Commission to decide. Thanks. - Matt

Matthew G. Mavrogeorge
Assistant Attorney General
Civil Bureau
New Hampshire Department of Justice
33 Capitol Street
Concord, NH 03301
(603) 271-3650 phone
(603) 223-6243 fax

Statement of Confidentiality

The information contained in this electronic message and any attachments to this message may contain confidential or privileged information and are intended for the exclusive use of the intended recipient(s). Please notify the Attorney General's Office immediately at (603) 271-3658 or reply to justice@doj.nh.gov if you are not the intended recipient and destroy all copies of this electronic message and any attachments.

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY
ATTORNEY GENERAL



ANN M. RICE
DEPUTY ATTORNEY GENERAL

August 22, 2012

Patricia Klee

[REDACTED]
Nashua, NH 03064

Re: Political Calls

Dear Ms. Klee:

On August 8, 2012, this office received a complaint from you alleging that you received a call from the Kevin Smith for Governor Campaign ("Smith Campaign") despite the fact that you are on the do not call list. As a result of your complaint this office conducted an inquiry.

On August 8, 2012, Mark Myrdek, who is an investigator with this office, spoke with you about your complaint. You explained that a person from the Smith Campaign made live calls to your phone number and asked to speak with your husband. You indicated that you requested that the caller remove your number from the Smith Campaign's call list.

While New Hampshire law prohibits the delivery of *prerecorded* political messages by telephone to numbers on the federal do not call list (*see* RSA 664:14-a, III), no such prohibition exists for *live* calls.

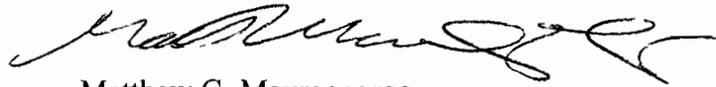
On August 8, 2012, Investigator Myrdek spoke with Tom DeRosa from the Smith Campaign about your complaint. Mr. DeRosa stated that the Smith Campaign's policy is to remove any number from their call list when a request to do so is made. He informed Investigator Myrdek that he would contact you and remove your number from the Smith Campaign's call list.

On August 14, 2012, you told Investigator Myrdek that someone from the Smith Campaign called and informed you that your number was being removed from their call list.

* Patricia Klee
Re: Political Calls
August 22, 2012
Page 2

The review into your complaint is now closed. Please do not hesitate to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Matthew G. Mavrogeorge', written in a cursive style.

Matthew G. Mavrogeorge
Assistant Attorney General
Civil Bureau

cc: Tom DeRosa
798346

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY
ATTORNEY GENERAL



ANN M. RICE
DEPUTY ATTORNEY GENERAL

August 31, 2012

David Clapp

[REDACTED]
Newport, RI 02840

Re: New Hampshire Domicile Inquiry

Dear Mr. Clapp:

On July 27, 2012, you contacted this office with a concern that your name may be removed from the Amherst voter checklist, or that you will otherwise be prevented from voting there because you are temporarily living in a rented house in Rhode Island. You stated that you are still domiciled in Amherst, where you have owned a home for the last 7-8 years. You explained that your concerns about voting were raised when the Amherst Town Clerk's Office informed you that they would not be sending you a vehicle re-registration form because you no longer live in Amherst. While the Attorney General's Office cannot give you an opinion regarding your current domicile, you may want to review the Constitutional and statutory provisions discussed below.

Under Part 1, Art. 11 of the New Hampshire Constitution, "[] every inhabitant of the state of 18 years of age and upwards shall have an equal right to vote in any election." N.H. CONST., pt. 1, art. 11. Every person shall be considered an inhabitant for the purposes of voting in the one "town, ward, or unincorporated place in which he or she is domiciled." RSA 654:1, I.

An inhabitant's domicile for voting purposes 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 continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government." *Id.* "Domicile for purposes of voting is a question of fact and intention." RSA 654:2.

"A voter can only have one domicile []." RSA 654:2. An individual's domicile, "once existing, continues to exist until another such domicile is gained." *Id.* "A person has the right to change domicile at any time, however a mere intention to change domicile in the future does not, of itself, terminate an established domicile before the person actually moves." RSA 654:1, I. "A domicile for voting purposes acquired by any person in any town shall not be interrupted or lost

David Clapp
Re: New Hampshire Domicile Inquiry
August 31, 2012
Page 2

by a temporary absence therefrom with the intention of returning thereto as his or her domicile.”
RSA 654:2.

Voter checklists in New Hampshire are maintained by the Supervisors of the Checklist for the individual municipalities. With regard to an address change, RSA 654:36-b states in pertinent part:

If the supervisors of the checklist receive a report from the United States Postal Service or the department of safety directly or as communicated by the secretary of state through the centralized voter registration database that a voter has permanently changed his or her address to another town, city, or state, they shall strike that name from the checklist at the next session for the correction of the checklist. The supervisors of the checklist shall retain the report in accordance with RSA 33-A:3-a. As an alternative, the supervisors of the checklist may first send a 30-day notice letter and then shall remove the name from the checklist if the voter does not respond to that notice as set forth in RSA 654:44.

RSA 654:36-b.

With regard to removing a voter's name from the official checklist, RSA 654:44 states in pertinent part:

The supervisors shall remove no person's name from the checklist of their town or ward unless they shall send notice by mail to the last known address of the person whose name they wish to remove from the checklist stating the reason they are considering removing such person's name from the checklist. Such notice shall also state the time and the place at which the supervisors shall meet to consider the removal of that person's name and shall give the date of such meeting which shall be at least 30 days after they send such notice. At such meeting, the person whose name the supervisors wish to remove shall have a chance as he or she wishes to state in person or to present in writing personally, or by mail or other messenger, or by any such combination of these as the person chooses, the reasons why his or her name should be left on the checklist. The supervisors shall not remove a person's name from the checklist until after the completion of the written or oral statement, if any, of the person whose name they wish to remove from the checklist at the meeting held at least 30 days after they sent the notice this section requires. The supervisors shall retain a copy of the notice in accordance with RSA 33-A:3-a.

David Clapp
Re: New Hampshire Domicile Inquiry
August 31, 2012
Page 3

RSA 654:44, I. Disputes regarding whether a name has been improperly removed from, or kept on, the voter checklist are decided by the superior court. *See* RSA 654:42.

Voters offering to vote at their polling place during an election may have their voting qualifications challenged pursuant to RSA 659:27 and RSA 659:27-a. If the basis for a challenge is domicile, the challenge will be ruled upon by the Supervisors of the Checklist. RSA 659:27-a. If the Supervisors of the Checklist find that such a challenge is well grounded, the voter will not be able to vote unless he or she executes a Challenged Voter Affidavit. RSA 659:27. If the Supervisors of the Checklist find that such a challenge is not well grounded, the Moderator must permit the voter to proceed to vote without any further action. *Id.*

Our review into your complaint is now closed. Please do not hesitate to contact me if you have any questions.

Sincerely,



Matthew G. Mavrogeorge
Assistant Attorney General
Civil Bureau

cc: Town of Amherst, Town Clerk
Town of Amherst, Supervisors of the Checklist
800487

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY
ATTORNEY GENERAL



ANN M. RICE
DEPUTY ATTORNEY GENERAL

September 7, 2012

Louis Klotz, Clerk
Town of Thornton
16 Merrill Access Road
Thornton, NH 03285

Re: Sending Absentee Ballots to UOCAVA Voters

Dear Mr. Klotz:

On August 3, 2012, this Office was contacted by Assistant Secretary of State Anthony Stevens regarding possible noncompliance by the Town of Thornton ("Thornton") with RSA 657:19, which governs the sending of absentee ballots to Uniformed and Overseas Citizens Absentee Voting Act ("UOCAVA") voters. As a result, this Office conducted an investigation.

"Upon receipt of a properly executed application for an absentee ballot from a UOCAVA voter," town clerks are required to "retain the application and, without delay . . . enter the application in the statewide centralized voter registration database." RSA 657:19, I(a). This centralized database is known as ElectioNet. Town clerks are required to enter into ElectioNet, "without delay," "the dates that all valid requests for absentee ballots are received [and] the dates all absentee ballots are sent." RSA 657:26.

With regard to the State Primary Election, clerks are required to deliver absentee ballots to UOCAVA voters, either by mail or email as requested, no later than forty-five (45) days prior to the election. RSA 657:19; 42 USC §1973ff et seq. ("MOVE Act"). The 2012 New Hampshire Presidential Primary is scheduled for September 11, 2012. Thus, the 45-day deadline for this election was Saturday, July 28, 2012.

On August 3, 2012, Mark Myrdek, our investigator, spoke with Thornton Assistant Town Clerk Desire Mahurin about this matter. She informed Investigator Myrdek that Thornton had a total of one (1) UOCAVA absentee ballot request that was made before July 28th. She stated that you knew that the ballot had to be sent out in response that request by July 28th, but that she noticed that it had not been sent out when she came into the office on Monday, July 30th. She told Investigator Myrdek that she called you on July 30th and had you come in to send out the ballot.

On August 9, 2012, Investigator Myrdek spoke to you about this matter. You told him that you knew on Thursday, July 26th that you had an email ballot request from a UOCAVA voter. You explained that you were not going to be in the office on Friday and that you were going to be away that weekend for a wedding. You stated that you waited until Monday, July 30th to send out the ballot because you did not want to make a mistake by rushing to send it out before you left for the weekend. You have since confirmed that your office has received the ballot back from the voter that you sent it to.

During our investigation, the Secretary of State's Office provided us with copies of email notices that it had sent to you and the other town/city clerks in the State with instructions for sending absentee ballots to UOCAVA voters by the July 28th deadline. The first of these email notices was sent in May 2012. Subsequent emails were sent on June 8th, July 19th and July 26th. Additionally, all clerks were sent an email on July 26th from Patricia Piecuch, who is the President of the New Hampshire City and Town Clerks Association. In her email, Ms. Piecuch reminded you and the other clerks of the July 28th deadline and that you would need to come into the office on that Saturday in order to make sure all ballots are sent out by the deadline. Lastly, prior to July 28th, the login screen for ElectioNet contained a banner which read:

Clerks – MOVE ACT Deadline – July 28th
All UOCAVA Requests on file MUST be Mailed/Emailed on this date

Based on our investigation, this Office concludes that you violated RSA 657:19 because you failed to send out ballots to one (1) UOCAVA voter who requested a ballot, no later than forty-five (45) days prior to the State Primary.

You are hereby warned that any future violation of the laws pertaining to the delivery of ballots to UOCAVA voters by you may result in an enforcement action and/or prosecution by this Office in New Hampshire Superior Court pursuant to RSA chapter 666.

In order to decrease the chances of this situation happening again, you are directed to do the following and for the 2012 State General Election Cycle, your compliance will be monitored by our Office:

- Review the following state absentee ballot laws pertaining to UOCAVA voters: RSA 652:16-b, 652:16-c, 654:3, 657:15, 657:19, 657:19-a and 657:26.
- Read all emails from the Secretary of State and confirm via email to Anthony Stevens at Anthony.Stevens@sos.nh.gov that you have received and reviewed all emails that relate to UOCAVA absentee ballots and the federal MOVE Act.
- Maintain a physical folder that contains paper UOCAVA absentee requests (Federal Post Card Application (“FPCA”) forms and the equivalents) for each calendar year, e.g. “2012 UOCAVA Requests” and “2014 UOCAVA Requests.”
- Copy each physical UOCAVA absentee ballot request and place the paper copy in a separate physical folder that corresponds to the specific election to which it applies, e.g. “2012 State Primary” and “2012 General Election.”

- Enter into ElectioNet each UOCAVA absentee ballot request immediately upon receipt. The “start date” entered into ElectioNet must correspond to the date stamp on the FPCA or equivalent form indicating when the clerk received it.

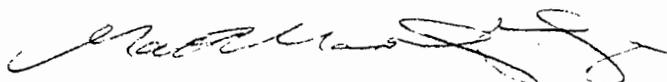
In order to further decrease the chance of this situation happening again, you should undertake the following:

- Attend one Regional Workshop for town and city clerks in the spring of each year.
- Attend the annual conference of the New Hampshire City and Town Clerks Association in the fall of each year.

As a reminder, the forty-five (45) day deadline for sending General Election ballots in response to requests received from UOCAVA voters is Saturday, September 22nd. This means that you must go to the Town Clerk’s Office to make sure that ballots get sent to UOCAVA voters who have requested them. You must determine what time the nearest post office closes in order to make sure that envelopes containing ballots get postmarked on that Saturday. You are also required to check your email at 5:00 p.m. on that Saturday in order to respond to any email requests for ballots.

Our investigator will contact you and the Secretary of State’s Office to confirm your compliance with the requirements contained in this letter. If compliance occurs, our investigation will be closed. If you have any questions, please do not hesitate to contact me.

Sincerely,



Matthew G. Mavrogeorge
Assistant Attorney General
Civil Bureau
(603) 271-3650

cc: William M. Gardner, Secretary of State
David M. Scanlan, Deputy Secretary of State
Anthony Stevens, Assistant Secretary of State
Desire Mahurin, Thornton Assistant Town Clerk
Town of Thornton, Board of Selectmen

MGM

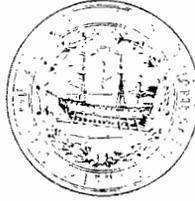
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**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY
ATTORNEY GENERAL

ANN M. RICE
DEPUTY ATTORNEY GENERAL



September 7, 2012

Cynthia Torsey, Clerk
Town of New Hampton
6 Pinnacle Hill Road
New Hampton, NH 03256

Re: Sending Absentee Ballots to UOCAVA Voters

Dear Ms. Torsey:

On August 3, 2012, this Office was contacted by Assistant Secretary of State Anthony Stevens regarding possible noncompliance by the Town of New Hampton ("New Hampton") with RSA 657:19, which governs the sending of absentee ballots to Uniformed and Overseas Citizens Absentee Voting Act ("UOCAVA") voters. As a result, this Office conducted an investigation.

"Upon receipt of a properly executed application for an absentee ballot from a UOCAVA voter," town clerks are required to "retain the application and, without delay . . . enter the application in the statewide centralized voter registration database." RSA 657:19, I(a). This centralized database is known as ElectioNet. Town clerks are required to enter into ElectioNet, "without delay," "the dates that all valid requests for absentee ballots are received [and] the dates all absentee ballots are sent." RSA 657:26.

With regard to the State Primary Election, clerks are required to deliver absentee ballots to UOCAVA voters, either by mail or email as requested, no later than forty-five (45) days prior to the election. RSA 657:19; 42 USC §1973ff et seq. ("MOVE Act"). The 2012 New Hampshire Presidential Primary is scheduled for September 11, 2012. Thus, the 45-day deadline for this election was Saturday, July 28, 2012.

On August 3, 2012, Mark Myrdek, our investigator, spoke with you about this matter. You informed Investigator Myrdek that New Hampton had a total of two (2) UOCAVA absentee ballot requests that were made before July 28th. You stated that you did not send these ballots out until Monday, July 30th. You informed Investigator Myrdek that someone from the Secretary of State's Office told you that if the address that the ballots were being mailed to was an Army Post Office ("APO") address then the ballots did not have to be sent by July 28th.

On August 8, 2012, Investigator Myrdek spoke with officials from the Secretary of State's Office, who told him that they would never tell a clerk that they could disregard the 45-day deadline for ballots being sent to APO addresses. The Secretary of State's Office position is consistent with the emails that they sent to all clerks over the summer to remind them of the 45-day deadline.

During our investigation, the Secretary of State's Office provided us with copies of email notices that it had sent to you and the other town/city clerks in the State with instructions for sending absentee ballots to UOCAVA voters by the 28th deadline. The first of these email notices was sent in May 2012. Subsequent emails were sent on June 8th, July 19th and July 26th. Additionally, all clerks were sent an email on July 26th from Patricia Piecuch, who is the President of the New Hampshire City and Town Clerks Association. In her email, Ms. Piecuch reminded you and the other clerks of the July 28th deadline and that you would need to come into the office on that Saturday in order to make sure all ballots are sent out by the deadline. Lastly, prior to July 28th, the login screen for ElectioNet contained a banner which read:

Clerks – MOVE ACT Deadline – July 28th
All UOCAVA Requests on file MUST be Mailed/Emailed on this date

Based on our investigation, this Office concludes that you violated RSA 657:19 because you failed to send out ballots to two (2) UOCAVA voters who requested ballots, no later than forty-five (45) days prior to the State Primary.

You are hereby warned that any future violation of the laws pertaining to the delivery of ballots to UOCAVA voters by you may result in an enforcement action and/or prosecution by this Office in New Hampshire Superior Court pursuant to RSA chapter 666.

In order to decrease the chances of this situation happening again, you are directed to do the following and for the 2012 State General Election Cycle, your compliance will be monitored by our Office:

- Review the following state absentee ballot laws pertaining to UOCAVA voters: RSA 652:16-b, 652:16-c, 654:3, 657:15, 657:19, 657:19-a and 657:26.
- Read all emails from the Secretary of State and confirm via email to Anthony Stevens at Anthony.Stevens@sos.nh.gov that you have received and reviewed all emails that relate to UOCAVA absentee ballots and the federal MOVE Act.
- Maintain a physical folder that contains paper UOCAVA absentee requests (Federal Post Card Application ("FPCA") forms and the equivalents) for each calendar year, e.g. "2012 UOCAVA Requests" and "2014 UOCAVA Requests."
- Copy each physical UOCAVA absentee ballot request and place the paper copy in a separate physical folder that corresponds to the specific election to which it applies, e.g. "2012 State Primary" and "2012 General Election."
- Enter into ElectioNet each UOCAVA absentee ballot request immediately upon receipt. The "start date" entered into ElectioNet must correspond to the date stamp on the FPCA or equivalent form indicating when the clerk received it.

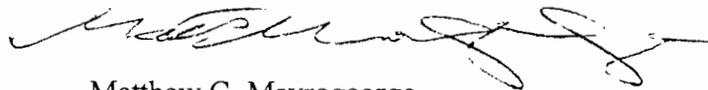
In order to further decrease the chance of this situation happening again, you should undertake the following:

- Attend one Regional Workshop for town and city clerks in the spring of each year.
- Attend the annual conference of the New Hampshire City and Town Clerks Association in the fall of each year.

As a reminder, the forty-five (45) day deadline for sending General Election ballots in response to requests received from UOCAVA voters is Saturday, September 22nd. This means that you must go to the Town Clerk's Office to make sure that ballots get sent to UOCAVA voters who have requested them. You must determine what time the nearest post office closes in order to make sure that envelopes containing ballots get postmarked on that Saturday. You are also required to check your email at 5:00 p.m. on that Saturday in order to respond to any email requests for ballots.

Our investigator will contact you and the Secretary of State's Office to confirm your compliance with the requirements contained in this letter. If compliance occurs, our investigation will be closed. If you have any questions, please do not hesitate to contact me.

Sincerely,



Matthew G. Mavrogeorge
Assistant Attorney General
Civil Bureau
(603) 271-3650

cc: William M. Gardner, Secretary of State
David M. Scanlan, Deputy Secretary of State
Anthony Stevens, Assistant Secretary of State
Town of New Hampton, Board of Selectmen

MGM

803287

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MICHAEL A. DELANEY
ATTORNEY GENERAL



ANN M. RICE
DEPUTY ATTORNEY GENERAL

September 7, 2012

Denise Neale, Clerk
Town of Derry
Derry Municipal Center
14 Manning Street
Derry, NH 03038

Re: Sending Absentee Ballots to UOCAVA Voters

Dear Ms. Neale:

On August 3, 2012, this Office was contacted by Assistant Secretary of State Anthony Stevens regarding possible noncompliance by the Town of Derry ("Derry") with RSA 657:19, which governs the sending of absentee ballots to Uniformed and Overseas Citizens Absentee Voting Act ("UOCAVA") voters. As a result, this Office conducted an investigation.

"Upon receipt of a properly executed application for an absentee ballot from a UOCAVA voter," town clerks are required to "retain the application and, without delay . . . enter the application in the statewide centralized voter registration database." RSA 657:19, I(a). This centralized database is known as ElectioNet. Town clerks are required to enter into ElectioNet, "without delay," "the dates that all valid requests for absentee ballots are received [and] the dates all absentee ballots are sent." RSA 657:26.

With regard to the State Primary Election, clerks are required to deliver absentee ballots to UOCAVA voters, either by mail or email as requested, no later than forty-five (45) days prior to the election. RSA 657:19; 42 USC §1973ff et seq. ("MOVE Act"). The 2012 New Hampshire Presidential Primary is scheduled for September 11, 2012. Thus, the 45-day deadline for this election was Saturday, July 28, 2012.

On August 3, 2012, Mark Myrdek, our investigator, spoke with you about this matter. You informed Investigator Myrdek that Derry had a total of seven (7) UOCAVA absentee ballot requests that were made before July 28th. You explained that ballots were mailed out for four (4) of those requests on July 28th. You stated that you had placed the other three (3) requests in a separate folder with the intent to send them out on July 28th as required. However, you acknowledged that ballots responsive to those three (3) requests were not mailed until Monday,

July 30th. You told Investigator Myrdek that you forgot to check the folder containing the requests on or before July 28th. You noted that all of the ballots delivered by your office have already been received back from the voters that they were sent to.

During our investigation, the Secretary of State's Office provided us with copies of email notices that it had sent to you and the other town/city clerks in the State with instructions for sending absentee ballots to UOCAVA voters by the July 28th deadline. The first of these email notices was sent in May 2012. Subsequent emails were sent on June 8th, July 19th and July 26th. Additionally, all clerks were sent an email on July 26th from Patricia Piecuch, who is the President of the New Hampshire City and Town Clerks Association. In her email, Ms. Piecuch reminded you and the other clerks of the July 28th deadline and that you would need to come into the office on that Saturday in order to make sure all ballots are sent out by the deadline. Lastly, prior to July 28th, the login screen for ElectionNet contained a banner which read:

Clerks – MOVE ACT Deadline – July 28th
All UOCAVA Requests on file MUST be Mailed/Emailed on this date

Based on our investigation, this Office concludes that you violated RSA 657:19 because you failed to send out ballots to three (3) UOCAVA voters who requested ballots, no later than forty-five (45) days prior to the State Primary.

You are hereby warned that any future violation of the laws pertaining to the delivery of ballots to UOCAVA voters by you may result in an enforcement action and/or prosecution by this Office in New Hampshire Superior Court pursuant to RSA chapter 666.

In order to decrease the chances of this situation happening again, you are directed to do the following and for the 2012 State General Election Cycle, your compliance will be monitored by our Office:

- Review the following state absentee ballot laws pertaining to UOCAVA voters: RSA 652:16-b, 652:16-c, 654:3, 657:15, 657:19, 657:19-a and 657:26.
- Read all emails from the Secretary of State and confirm via email to Anthony Stevens at Anthony.Stevens@sos.nh.gov that you have received and reviewed all emails that relate to UOCAVA absentee ballots and the federal MOVE Act.
- Maintain a physical folder that contains paper UOCAVA absentee requests (Federal Post Card Application ("FPCA") forms and the equivalents) for each calendar year, e.g. "2012 UOCAVA Requests" and "2014 UOCAVA Requests."
- Copy each physical UOCAVA absentee ballot request and place the paper copy in a separate physical folder that corresponds to the specific election to which it applies, e.g. "2012 State Primary" and "2012 General Election."
- Enter into ElectionNet each UOCAVA absentee ballot request immediately upon receipt. The "start date" entered into ElectionNet must correspond to the date stamp on the FPCA or equivalent form indicating when the clerk received it.

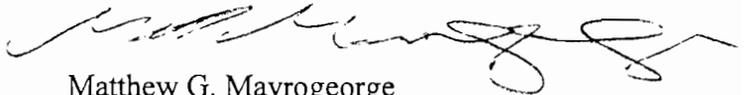
In order to further decrease the chance of this situation happening again, you should undertake the following:

- Attend one Regional Workshop for town and city clerks in the spring of each year.
- Attend the annual conference of the New Hampshire City and Town Clerks Association in the fall of each year.

As a reminder, the forty-five (45) day deadline for sending General Election ballots in response to requests received from UOCAVA voters is Saturday, September 22nd. This means that you must go to the Town Clerk's Office to make sure that ballots get sent to UOCAVA voters who have requested them. You must determine what time the nearest post office closes in order to make sure that envelopes containing ballots get postmarked on that Saturday. You are also required to check your email at 5:00 p.m. on that Saturday in order to respond to any email requests for ballots.

Our investigator will contact you and the Secretary of State's Office to confirm your compliance with the requirements contained in this letter. If compliance occurs, our investigation will be closed. If you have any questions, please do not hesitate to contact me.

Sincerely,



Matthew G. Mavrogeorge
Assistant Attorney General
Civil Bureau
(603) 271-3650

cc: William M. Gardner, Secretary of State
David M. Scanlan, Deputy Secretary of State
Anthony Stevens, Assistant Secretary of State
Town of Derry, Board of Selectmen

MGM

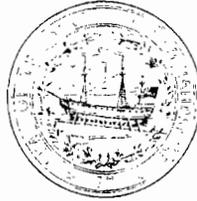
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**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY
ATTORNEY GENERAL

ANN M. RICE
DEPUTY ATTORNEY GENERAL



September 7, 2012

Debra Clark, Clerk
Town of Charlestown
PO Box 834
26 Railroad Street
Charlestown, NH 03603

Re: Sending Absentee Ballots to UOCAVA Voters

Dear Ms. Clark:

On August 3, 2012, this Office was contacted by Assistant Secretary of State Anthony Stevens regarding possible noncompliance by the Town of Charlestown ("Charlestown") with RSA 657:19, which governs the sending of absentee ballots to Uniformed and Overseas Citizens Absentee Voting Act ("UOCAVA") voters. As a result, this Office conducted an investigation.

"Upon receipt of a properly executed application for an absentee ballot from a UOCAVA voter," town clerks are required to "retain the application and, without delay . . . enter the application in the statewide centralized voter registration database." RSA 657:19, I(a). This centralized database is known as ElectioNet. Town clerks are required to enter into ElectioNet, "without delay," "the dates that all valid requests for absentee ballots are received [and] the dates all absentee ballots are sent." RSA 657:26.

With regard to the State Primary Election, clerks are required to deliver absentee ballots to UOCAVA voters, either by mail or email as requested, no later than forty-five (45) days prior to the election. RSA 657:19; 42 USC §1973ff et seq. ("MOVE Act"). The 2012 New Hampshire Presidential Primary is scheduled for September 11, 2012. Thus, the 45-day deadline for this election was Saturday, July 28, 2012.

On August 3, 2012, Mark Myrdek, our investigator, spoke with you about this matter. You informed Investigator Myrdek that Charlestown had a total of one (1) UOCAVA absentee ballot request that was made before July 28th. You explained that because of issues with the Town computers during the end of the week of July 23rd you did not send this ballot out until Monday, July 30th. You noted that this ballot has already been received back from the voter that it was sent to.

During our investigation, the Secretary of State's Office provided us with copies of email notices that it had sent to you and the other town/city clerks in the State with instructions for sending absentee ballots to UOCAVA voters by the July 28th deadline. The first of these email notices was sent in May 2012. Subsequent emails were sent on June 8th, July 19th and July 26th. Additionally, all clerks were sent an email on July 26th from Patricia Piecuch, who is the President of the New Hampshire City and Town Clerks Association. In her email, Ms. Piecuch reminded you and the other clerks of the July 28th deadline and that you would need to come into the office on that Saturday in order to make sure all ballots are sent out by the deadline. Lastly, prior to July 28th, the login screen for ElectionNet contained a banner which read:

Clerks – MOVE ACT Deadline – July 28th
All UOCAVA Requests on file MUST be Mailed/Emailed on this date

Based on our investigation, this Office concludes that you violated RSA 657:19 because you failed to send out ballots to one (1) UOCAVA voter who requested a ballot, no later than forty-five (45) days prior to the State Primary.

You are hereby warned that any future violation of the laws pertaining to the delivery of ballots to UOCAVA voters by you may result in an enforcement action and/or prosecution by this Office in New Hampshire Superior Court pursuant to RSA chapter 666.

We understand that there are mitigating personal circumstances. We recommend that you train another employee or official to assist you with your clerk responsibilities when you are unable to perform them.

In order to decrease the chances of this situation happening again, you are directed to do the following and for the 2012 State General Election Cycle, your compliance will be monitored by our Office:

- Review the following state absentee ballot laws pertaining to UOCAVA voters: RSA 652:16-b, 652:16-c, 654:3, 657:15, 657:19, 657:19-a and 657:26.
- Read all emails from the Secretary of State and confirm via email to Anthony Stevens at Anthony.Stevens@sos.nh.gov that you have received and reviewed all emails that relate to UOCAVA absentee ballots and the federal MOVE Act.
- Maintain a physical folder that contains paper UOCAVA absentee requests (Federal Post Card Application ("FPCA") forms and the equivalent) for each calendar year, e.g. "2012 UOCAVA Requests" and "2014 UOCAVA Requests."
- Copy each physical UOCAVA absentee ballot request and place the paper copy in a separate physical folder that corresponds to the specific election to which it applies, e.g. "2012 State Primary" and "2012 General Election."
- Enter into ElectionNet each UOCAVA absentee ballot request immediately upon receipt. The "start date" entered into ElectionNet must correspond to the date stamp on the FPCA or equivalent form indicating when the clerk received it.

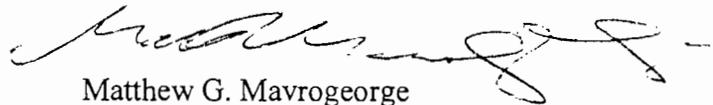
In order to further decrease the chance of this situation happening again, you should undertake the following:

- Attend one Regional Workshop for town and city clerks in the spring of each year.
- Attend the annual conference of the New Hampshire City and Town Clerks Association in the fall of each year.

As a reminder, the forty-five (45) day deadline for sending General Election ballots in response to requests received from UOCAVA voters is Saturday, September 22nd. This means that you must go to the Town Clerk's Office to make sure that ballots get sent to UOCAVA voters who have requested them. You must determine what time the nearest post office closes in order to make sure that envelopes containing ballots get postmarked on that Saturday. You are also required to check your email at 5:00 p.m. on that Saturday in order to respond to any email requests for ballots.

Our investigator will contact you and the Secretary of State's Office to confirm your compliance with the requirements contained in this letter. If compliance occurs, our investigation will be closed. If you have any questions, please do not hesitate to contact me.

Sincerely,



Matthew G. Mavrogeorge
Assistant Attorney General
Civil Bureau
(603) 271-3650

cc: William M. Gardner, Secretary of State
David M. Scanlan, Deputy Secretary of State
Anthony Stevens, Assistant Secretary of State
Town of Charlestown, Board of Selectmen

MGM

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**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY
ATTORNEY GENERAL



ANN M. RICE
DEPUTY ATTORNEY GENERAL

September 7, 2012

Cynthia Treadwell, Clerk
Town of Barnstead
108 South Barnstead Road
PO Box 11
Center Barnstead, NH 03225

Re: Sending Absentee Ballots to UOCAVA Voters

Dear Ms. Treadwell:

On August 3, 2012, this Office was contacted by Assistant Secretary of State Anthony Stevens regarding possible noncompliance by the Town of Barnstead ("Barnstead") with RSA 657:19, which governs the sending of absentee ballots to Uniformed and Overseas Citizens Absentee Voting Act ("UOCAVA") voters. As a result, this Office conducted an investigation.

"Upon receipt of a properly executed application for an absentee ballot from a UOCAVA voter," town clerks are required to "retain the application and, without delay . . . enter the application in the statewide centralized voter registration database." RSA 657:19, I(a). This centralized database is known as ElectioNet. Town clerks are required to enter into ElectioNet, "without delay," "the dates that all valid requests for absentee ballots are received [and] the dates all absentee ballots are sent." RSA 657:26.

With regard to the State Primary Election, clerks are required to deliver absentee ballots to UOCAVA voters, either by mail or email as requested, no later than forty-five (45) days prior to the election. RSA 657:19; 42 USC §1973ff et seq. ("MOVE Act"). The 2012 New Hampshire Presidential Primary is scheduled for September 11, 2012. Thus, the 45-day deadline for this election was Saturday, July 28, 2012.

On August 3, 2012, Mark Myrdek, our investigator, spoke with you about this matter. You informed Investigator Myrdek that Barnstead had a total of one (1) UOCAVA absentee ballot request that was made before July 28th. You explained that because you had been away from the office during the week of July 23rd, you did not send this ballot out until Monday July 30th. You claim that you were not aware of the July 28th deadline.

During our investigation, the Secretary of State's Office provided us with copies of email notices that it had sent to you and the other town/city clerks in the State with instructions for sending absentee ballots to UOCAVA voters by the July 28th deadline. The first of these email notices was sent in May 2012. Subsequent emails were sent on June 8th, July 19th and July 26th. Additionally, all clerks were sent an email on July 26th from Patricia Piecuch, who is the President of the New Hampshire City and Town Clerks Association. In her email, Ms. Piecuch reminded you and the other clerks of the July 28th deadline and that you would need to come into the office on that Saturday in order to make sure all ballots are sent out by the deadline. Lastly, prior to July 28th, the login screen for ElectioNet contained a banner which read:

Clerks – MOVE ACT Deadline – July 28th
All UOCAVA Requests on file MUST be Mailed/Emailed on this date

Based on our investigation, this Office concludes that you violated RSA 657:19 because you failed to send out ballots to one (1) UOCAVA voter who requested a ballot, no later than forty-five (45) days prior to the State Primary.

You are hereby warned that any future violation of the laws pertaining to the delivery of ballots to UOCAVA voters by you may result in an enforcement action and/or prosecution by this Office in New Hampshire Superior Court pursuant to RSA chapter 666.

In order to decrease the chances of this situation happening again, you are directed to do the following and for the 2012 State General Election Cycle, your compliance will be monitored by our Office:

- Review the following state absentee ballot laws pertaining to UOCAVA voters: RSA 652:16-b, 652:16-c, 654:3, 657:15, 657:19, 657:19-a and 657:26.
- Read all emails from the Secretary of State and confirm via email to Anthony Stevens at Anthony.Stevens@sos.nh.gov that you have received and reviewed all emails that relate to UOCAVA absentee ballots and the federal MOVE Act.
- Maintain a physical folder that contains paper UOCAVA absentee requests (Federal Post Card Application ("FPCA") forms and the equivalents) for each calendar year, e.g. "2012 UOCAVA Requests" and "2014 UOCAVA Requests."
- Copy each physical UOCAVA absentee ballot request and place the paper copy in a separate physical folder that corresponds to the specific election to which it applies, e.g. "2012 State Primary" and "2012 General Election."
- Enter into ElectioNet each UOCAVA absentee ballot request immediately upon receipt. The "start date" entered into ElectioNet must correspond to the date stamp on the FPCA or equivalent form indicating when the clerk received it.

In order to further decrease the chance of this situation happening again, you should undertake the following:

- Attend one Regional Workshop for town and city clerks in the spring of each year.

- Attend the annual conference of the New Hampshire City and Town Clerks Association in the fall of each year.

As a reminder, the forty-five (45) day deadline for sending General Election ballots in response to requests received from UOCAVA voters is Saturday, September 22nd. This means that you must go to the Town Clerk's Office to make sure that ballots get sent to UOCAVA voters who have requested them. You must determine what time the nearest post office closes in order to make sure that envelopes containing ballots get postmarked on that Saturday. You are also required to check your email at 5:00 p.m. on that Saturday in order to respond to any email requests for ballots.

Our investigator will contact you and the Secretary of State's Office to confirm your compliance with the requirements contained in this letter. If compliance occurs, our investigation will be closed. If you have any questions, please do not hesitate to contact me.

Sincerely,



Matthew G. Mavrogeorge
Assistant Attorney General
Civil Bureau
(603) 271-3650

cc: William M. Gardner, Secretary of State
David M. Scanlan, Deputy Secretary of State
Anthony Stevens, Assistant Secretary of State
Town of Barnstead, Board of Selectmen

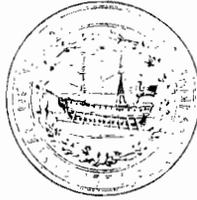
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**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY
ATTORNEY GENERAL



ANN M. RICE
DEPUTY ATTORNEY GENERAL

September 7, 2012

Rose Cavalear, Clerk
Town of Atkinson
21 Academy Avenue
Atkinson, NH 03811

Re: Sending Absentee Ballots to UOCAVA Voters

Dear Ms. Cavalear:

On August 3, 2012, this Office was contacted by Assistant Secretary of State Anthony Stevens regarding possible noncompliance by the Town of Atkinson ("Atkinson") with RSA 657:19, which governs the sending of absentee ballots to Uniformed and Overseas Citizens Absentee Voting Act ("UOCAVA") voters. As a result, this Office conducted an investigation.

"Upon receipt of a properly executed application for an absentee ballot from a UOCAVA voter," town clerks are required to "retain the application and, without delay . . . enter the application in the statewide centralized voter registration database." RSA 657:19, I(a). This centralized database is known as ElectioNet. Town clerks are required to enter into ElectioNet, "without delay," "the dates that all valid requests for absentee ballots are received [and] the dates all absentee ballots are sent." RSA 657:26.

With regard to the State Primary Election, clerks are required to deliver absentee ballots to UOCAVA voters, either by mail or email as requested, no later than forty-five (45) days prior to the election. RSA 657:19; 42 USC §1973ff et seq. ("MOVE Act"). The 2012 New Hampshire Presidential Primary is scheduled for September 11, 2012. Thus, the 45-day deadline for this election was Saturday, July 28, 2012.

On August 3, 2012, Mark Myrdek, our investigator, spoke with you about this matter. You informed Investigator Myrdek that Atkinson had a total of two (2) UOCAVA absentee ballot requests that were made before July 28th. You stated that you did not send these ballots out until Monday, July 30th. You explained that you did not see the prior emails from the Secretary of State's Office reminding clerks of the 45-day deadline. You acknowledged that you should have checked your email earlier.

During our investigation, the Secretary of State's Office provided us with copies of email notices that it had sent to you and the other town/city clerks in the State with instructions for sending absentee ballots to UOCAVA voters by the July 28th deadline. The first of these email notices was sent in May 2012. Subsequent emails were sent on June 8th, July 19th and July 26th. Additionally, all clerks were sent an email on July 26th from Patricia Piecuch, who is the President of the New Hampshire City and Town Clerks Association. In her email, Ms. Piecuch reminded you and the other clerks of the July 28th deadline and that you would need to come into the office on that Saturday in order to make sure all ballots are sent out by the deadline. Lastly, prior to July 28th, the login screen for ElectioNet contained a banner which read:

Clerks – MOVE ACT Deadline – July 28th
All UOCAVA Requests on file MUST be Mailed/Emailed on this date

Based on our investigation, this Office concludes that you violated RSA 657:19 because you failed to send out ballots to two (2) UOCAVA voters who requested ballots, no later than forty-five (45) days prior to the State Primary.

You are hereby warned that any future violation of the laws pertaining to the delivery of ballots to UOCAVA voters by you may result in an enforcement action and/or prosecution by this Office in New Hampshire Superior Court pursuant to RSA chapter 666.

In order to decrease the chances of this situation happening again, you are directed to do the following and for the 2012 State General Election Cycle, your compliance will be monitored by our Office:

- Review the following state absentee ballot laws pertaining to UOCAVA voters: RSA 652:16-b, 652:16-c, 654:3, 657:15, 657:19, 657:19-a and 657:26.
- Read all emails from the Secretary of State and confirm via email to Anthony Stevens at Anthony.Stevens@sos.nh.gov that you have received and reviewed all emails that relate to UOCAVA absentee ballots and the federal MOVE Act.
- Maintain a physical folder that contains paper UOCAVA absentee requests (Federal Post Card Application ("FPCA") forms and the equivalents) for each calendar year, e.g. "2012 UOCAVA Requests" and "2014 UOCAVA Requests."
- Copy each physical UOCAVA absentee ballot request and place the paper copy in a separate physical folder that corresponds to the specific election to which it applies, e.g. "2012 State Primary" and "2012 General Election."
- Enter into ElectioNet each UOCAVA absentee ballot request immediately upon receipt. The "start date" entered into ElectioNet must correspond to the date stamp on the FPCA or equivalent form indicating when the clerk received it.

In order to further decrease the chance of this situation happening again, you should undertake the following:

- Attend one Regional Workshop for town and city clerks in the spring of each year.

- Attend the annual conference of the New Hampshire City and Town Clerks Association in the fall of each year.

As a reminder, the forty-five (45) day deadline for sending General Election ballots in response to requests received from UOCAVA voters is Saturday, September 22nd. This means that you must go to the Town Clerk's Office to make sure that ballots get sent to UOCAVA voters who have requested them. You must determine what time the nearest post office closes in order to make sure that envelopes containing ballots get postmarked on that Saturday. You are also required to check your email at 5:00 p.m. on that Saturday in order to respond to any email requests for ballots.

Our investigator will contact you and the Secretary of State's Office to confirm your compliance with the requirements contained in this letter. If compliance occurs, our investigation will be closed. If you have any questions, please do not hesitate to contact me.

Sincerely,



Matthew G. Mavrogeorge
Assistant Attorney General
Civil Bureau
(603) 271-3650

cc: William M. Gardner, Secretary of State
David M. Scanlan, Deputy Secretary of State
Anthony Stevens, Assistant Secretary of State
Town of Atkinson, Board of Selectmen

MGM

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**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY
ATTORNEY GENERAL



ANN M. RICE
DEPUTY ATTORNEY GENERAL

September 17, 2012

Diane McKane

[REDACTED]
Durham, NH 03824

Re: Political Sign Complaint

Dear Ms. McKane:

On August 28, 2012, this office received a complaint from you, alleging that Ovide Lamontagne for Governor political signs have been improperly placed along Interstate I-89 between Concord and Hanover. As a result of this complaint, this office conducted an inquiry.

On August 28, 2012, Mark Myrdek, an investigator with this office, spoke with you about your complaint. Although you could not provide investigator Myrdek with the exact location of the subject signs, you stated that you were positive that the signs were on the northbound side of the interstate.

On August 28, 2012, Investigator Myrdek contacted the Lamontagne campaign about your complaint. The campaign indicated that it would remind individuals who are placing signs for the campaign to place them in proper locations and only with consent of the landowner.

RSA 664:17, which regulates the placement and removal of political signs, states:

No political advertising shall be placed on or affixed to any public property including highway rights-of-way or private property without the owner's consent. All political advertising shall be removed by the candidate no later than the second Friday following the election unless the election is a primary and the advertising concerns a candidate who is a winner in the primary. Signs shall not be placed on or affixed to utility poles or highway signs. Political advertising may be placed within state-owned rights-of-way as long as the advertising does not obstruct the safe flow of traffic and the advertising is placed with the consent of the owner of the land over which the right-of-way passes. No person

Diane McKane
Re: Political Sign Complaint
September 17, 2012
Page 2

shall remove, deface, or knowingly destroy any political advertising which is placed on or affixed to public property or any private property except 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 for one week at a place designated by the state, city, or town so that the candidate may retrieve the items.

RSA 664:17 (emphasis added).

On August 28, 2012, Investigator Myrdek contacted the District II office of the New Hampshire Department of Transportation ("DOT"). Investigator Myrdek was informed that DOT personnel would be instructed to remove any political signs that have been improperly placed along Interstate I-89 without proper consent.

Thank you for bringing this matter to our attention. Our inquiry into your complaint is now closed. Should you have any additional questions, please do not hesitate to contact me.

Sincerely,



Matthew G. Mavrogeorge
Assistant Attorney General
Civil Bureau

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY
ATTORNEY GENERAL



ANN M. RICE
DEPUTY ATTORNEY GENERAL

September 17, 2012

Mike Walsh

[REDACTED]
Troy, NH 03465

Re: Political Advertising Complaint

Dear Mr. Walsh:

On August 13, 2012, this office received a complaint from Adam Hopkins, alleging that your signs relating to your candidacy for State Representative did not contain the disclosures required under New Hampshire law. As a result of the complaint, this office conducted an investigation.

Mr. Hopkins provided this office with a picture of one of your signs. The sign stated, "Mike Walsh State Rep. NOT for Sale." On August 12, 2012, Mark Myrdek, who is an investigator with this office, spoke with you about this complaint. You informed Investigator Myrdek that you were not familiar with the law requiring certain disclosures on political signs, but that you would immediately go out and place a sticker containing the required information on your existing signs.

"Political advertising" is defined as "any communication¹ . . . which expressly or implicitly advocates the success or defeat of any party, measure or person at any election." RSA 664:2, VI (emphasis added). The words "or implicitly" were struck from this statute by the U.S. District Court for the District of New Hampshire because they were "impermissibly vague." See Stenson v. McLaughlin, 2001 WL 1033614, 5, 7 (D.N.H. Aug. 24, 2001) (permanently enjoining the New Hampshire Attorney General "from enforcing RSA 664:14 and RSA 664:16 against any individual or organization engaging in political advertising that implicitly advocates the success or defeat of any party, measure or person at any election"). The United States Supreme Court has held that express advocacy communications are those which contain "express words of advocacy of election or defeat, such as 'vote for,' 'elect,' 'support,' 'cast your ballot for,' 'Smith

¹ RSA 664:2, VII, states in pertinent part: "'Communication' shall include, but not be limited to, publication in any newspaper . . ."

Mike Walsh
Re: Political Advertising Complaint
September 17, 2012
Page 2

for Congress,' 'vote against,' 'defeat,' 'reject.'" Buckley v. Valeo, 424 U.S. 1, at 44 n. 52, 80 n. 108.

While the Court in Buckley listed the "magic words" of express advocacy, its use of the phrase "such as" before those words, and its subsequent decision in Federal Election Commission v. Massachusetts Citizens for Life, Inc., 479 U.S. 238 (1986) indicate that express advocacy advertisements are not limited to communications that contain the Buckley "magic words." In Massachusetts Citizens for Life, Inc., the Court held that a print communication that directed readers to vote for pro-life candidates and identified and depicted specific pro-life candidates constituted express advocacy, because although it failed to directly tell the readers to vote for a specific candidate "it provide[d] in effect an explicit directive: vote for these (named) candidates." Massachusetts Citizens for Life, Inc., 479 U.S. at 249 (emphasis added); see also League of Women Voters v. Davidson, 23 P.3d 1266, 1277 (Colo.App. 2001) (holding that express advocacy as defined in a Colorado statute required the use of the "magic words" from Buckley or other substantially similar and synonymous words).

RSA 664:14 provides, in pertinent part:

All political advertising shall be signed at the beginning or the end with the names and addresses of the candidate, his fiscal agent, or the name and address of the chairman or the treasurer of a political committee, or the name and address of a natural person, according to whether a candidate, political committee, or natural person is responsible for it. . . .

RSA 664:14, I (emphasis added).

The "name" and "address" requirements in RSA 664:14 have been interpreted by this office to mean that political advertising must contain the name and address of the individual or entity responsible for the advertising. Also, since RSA 664:14 fails to define the term "address," this office has determined that as long as a political advertisement lists an address, whether a domicile, mailing, website or email address, that would allow someone to contact the person or entity responsible for the advertisement, the address disclosure requirement of RSA 664:14 is satisfied.

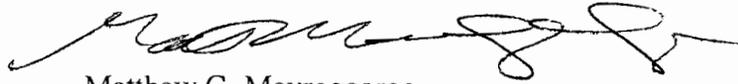
Upon review of the picture of your political sign, we conclude that the sign constitutes political advertising under RSA 664:2, VI because it expressly advocates for your success as a candidate for State Representative in the State Primary. We further conclude that the subject sign is in violation of RSA 664:14 because it fails to contain your address.

Mike Walsh
Re: Political Advertising Complaint
September 17, 2012
Page 3

Pursuant to RSA 664:18, II (a), **you are hereby ordered to Cease and Desist from engaging in any future political advertising without first complying with the disclosure requirements contained in RSA 664:14.** Failure to comply with this Cease and Desist Order may result in an enforcement action and/or prosecution in New Hampshire Superior Court.

This investigation into this complaint is now closed. If you have any questions, please do not hesitate to contact me.

Sincerely,



Matthew G. Mavrogeorge
Assistant Attorney General
Civil Bureau
(603) 271-3650

cc: Adam Hopkins
807728

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY
ATTORNEY GENERAL



ANN M. RICE
DEPUTY ATTORNEY GENERAL

September 17, 2012

Janet Kalar

[REDACTED]
Rochester, NH 03866

Re: Political Advertising Complaint

Dear Ms. Kalar:

On September 4, 2012, this office received a complaint from you, alleging that political signs in support of State Representative Candidate Corey Mattocks may lead voters to mistakenly think that that they can vote by text message. As a result of the complaint, this office conducted an investigation.

You provided this office with a picture of one of the subject signs. The sign stated, "Text VOTE to 86201 Mattocks For State Rep."

On August 12, 2012, Mark Myrdek, an investigator with this office, spoke with Mr. Mattocks about this complaint. Mr. Mattocks informed Investigator Myrdek that the sign instructs voters to text a number, which will cause them to get information regarding his campaign. Mr. Mattocks explained that the signs were not created to mislead any voters.

Based on our investigation, we conclude that the subject signs are not in violation of any state law. Thank you for bringing this matter to our attention. This investigation into this complaint is now closed. If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew G. Mavrogeorge".

Matthew G. Mavrogeorge
Assistant Attorney General
Civil Bureau
(603) 271-3650

cc: Corey Mattocks
807729

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY
ATTORNEY GENERAL



ANN M. RICE
DEPUTY ATTORNEY GENERAL

October 4, 2012

Patricia Little, Clerk
City of Keene
3 Washington Street
Keene, NH 03431

Re: Compliance with RSA 656:42

Dear Ms. Little:

You are receiving this letter because the Ward 5 polling place was not in complete compliance with the electronic ballot counting device statute, RSA 656:42, during the State Primary held on September 11, 2012.

The Secretary of State's office has put together the attached newsletter in order to illustrate the requirements of RSA 656:42 for election officials, such as yourself. Due to your polling place's recent noncompliance with RSA 656:42, we are requesting that you carefully read the attached newsletter and then sign the bottom of this letter certifying that you have read the attached newsletter. After you have signed this letter, please send it back to me before November 2012.

This office appreciates your dedication to New Hampshire's elections. It is because of the hard work by officials like you that our elections continue to be a model for other states to follow. Thank you for your cooperation in this matter. Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew G. Mavrogeorge".

Matthew G. Mavrogeorge
Assistant Attorney General
Civil Bureau

Patricia Little, Keene City Clerk
Re: Compliance with RSA 656:42
October 4, 2012
Page 2

I, Patricia Little, who holds the position of City Clerk in the municipality of Keene do certify that I have read the attached newsletter regarding the requirements of RSA 656:42.

Date

Patricia Little

Enclosure
815433

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY
ATTORNEY GENERAL



ANN M. RICE
DEPUTY ATTORNEY GENERAL

October 4, 2012

Mary Fay, Ward 5 Moderator
City of Keene
3 Washington Street
Keene, NH 03431

Re: Compliance with RSA 656:42

Dear Ms. Fay:

You are receiving this letter because your polling place was not in complete compliance with the electronic ballot counting device statute, RSA 656:42, during the State Primary held on September 11, 2012.

The Secretary of State's office has put together the attached newsletter in order to illustrate the requirements of RSA 656:42 for election officials, such as yourself. Due to your polling place's recent noncompliance with RSA 656:42, we are requesting that you carefully read the attached newsletter and then sign the bottom of this letter certifying that you have read the attached newsletter. After you have signed this letter, please send it back to me before November 2012.

This office appreciates your dedication to New Hampshire's elections. It is because of the hard work by officials like you that our elections continue to be a model for other states to follow. Thank you for your cooperation in this matter. Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew G. Mavrogeorge".

Matthew G. Mavrogeorge
Assistant Attorney General
Civil Bureau

Mary Fay, Moderator, Ward 5, City of Keene
Re: Compliance with RSA 656:42
October 4, 2012
Page 2

I, Mary Fay, who holds the position of Moderator in the municipality of Keene do certify that I have read the attached newsletter regarding the requirements of RSA 656:42.

Date

Mary Fay

Enclosure
815432

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY
ATTORNEY GENERAL



ANN M. RICE
DEPUTY ATTORNEY GENERAL

October 4, 2012

Geoff Ward, Ward 4 Moderator
City of Portsmouth
1 Junkins Avenue
Portsmouth, NH 03801

Re: Compliance with RSA 656:42

Dear Mr. Ward:

You are receiving this letter because your polling place was not in complete compliance with the electronic ballot counting device statute, RSA 656:42, during the State Primary held on September 11, 2012.

The Secretary of State's office has put together the attached newsletter in order to illustrate the requirements of RSA 656:42 for election officials, such as yourself. Due to your polling place's recent noncompliance with RSA 656:42, we are requesting that you carefully read the attached newsletter and then sign the bottom of this letter certifying that you have read the attached newsletter. After you have signed this letter, please send it back to me before November 2012.

This office appreciates your dedication to New Hampshire's elections. It is because of the hard work by officials like you that our elections continue to be a model for other states to follow. Thank you for your cooperation in this matter. Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew G. Mavrogeorge".

Matthew G. Mavrogeorge
Assistant Attorney General
Civil Bureau

Geoff Ward, Ward 4 Moderator, City of Portsmouth

Re: Compliance with RSA 656:42

October 4, 2012

Page 2

I, Geoff Ward, who holds the position of Ward 4 Moderator in the municipality of Portsmouth do certify that I have read the attached newsletter regarding the requirements of RSA 656:42.

Date

Geoff Ward

Enclosure
815436

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY
ATTORNEY GENERAL



ANN M. RICE
DEPUTY ATTORNEY GENERAL

October 4, 2012

Petra Pantelakos-Barstow, Ward 4 Moderator
City of Portsmouth
1 Junkins Avenue
Portsmouth, NH 03801

Re: Compliance with RSA 656:42

Dear Ms. Pantelakos-Barstow:

You are receiving this letter because your polling place was not in complete compliance with the electronic ballot counting device statute, RSA 656:42, during the State Primary held on September 11, 2012.

The Secretary of State's office has put together the attached newsletter in order to illustrate the requirements of RSA 656:42 for election officials, such as yourself. Due to your polling place's recent noncompliance with RSA 656:42, we are requesting that you carefully read the attached newsletter and then sign the bottom of this letter certifying that you have read the attached newsletter. After you have signed this letter, please send it back to me before November 2012.

This office appreciates your dedication to New Hampshire's elections. It is because of the hard work by officials like you that our elections continue to be a model for other states to follow. Thank you for your cooperation in this matter. Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew G. Mavrogeorge".

Matthew G. Mavrogeorge
Assistant Attorney General
Civil Bureau

- Petra Pantelakos-Barstow, Ward 4 Moderator, City of Portsmouth
Re: Compliance with RSA 656:42
October 4, 2012
Page 2

I, Petra Pantelakos-Barstow, who holds the position of Ward 1 Moderator in the municipality of Portsmouth do certify that I have read the attached newsletter regarding the requirements of RSA 656:42.

Date

Petra Pantelakos-Barstow

Enclosure
815438

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY
ATTORNEY GENERAL



ANN M. RICE
DEPUTY ATTORNEY GENERAL

October 4, 2012

Kelli Barnaby, Clerk
City of Portsmouth
1 Junkins Avenue
Portsmouth, NH 03801

Re: Compliance with RSA 656:42

Dear Ms. Barnaby:

You are receiving this letter because the polling places for Wards 1 and 4 were not in complete compliance with the electronic ballot counting device statute, RSA 656:42, during the State Primary held on September 11, 2012.

The Secretary of State's office has put together the attached newsletter in order to illustrate the requirements of RSA 656:42 for election officials, such as yourself. Due to your polling place's recent noncompliance with RSA 656:42, we are requesting that you carefully read the attached newsletter and then sign the bottom of this letter certifying that you have read the attached newsletter. After you have signed this letter, please send it back to me before November 2012.

This office appreciates your dedication to New Hampshire's elections. It is because of the hard work by officials like you that our elections continue to be a model for other states to follow. Thank you for your cooperation in this matter. Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew G. Mavrogeorge".

Matthew G. Mavrogeorge
Assistant Attorney General
Civil Bureau

Kelli Barnaby, Clerk, City of Portsmouth
Re: Compliance with RSA 656:42
October 4, 2012
Page 2

I, Kelli Barnaby, who holds the position of City Clerk in the municipality of Portsmouth do certify that I have read the attached newsletter regarding the requirements of RSA 656:42.

Date

Kelli Barnaby

Enclosure
815439

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY
ATTORNEY GENERAL



ANN M. RICE
DEPUTY ATTORNEY GENERAL

October 9, 2012

Lynn Christensen, Town Moderator
6 Baboosic Lake Road
Merrimack, NH 03054

Re: Voter Complaint

Dear Ms. Christensen:

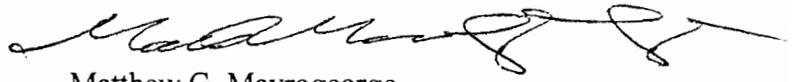
During the State Primary on September 11, 2012, this office received a complaint from a voter regarding the check-in process being used at one of the polling places in the Town of Merrimack. Specifically, the voter alleged that after she and her husband did not show photo identification, the ballot clerk circled, and put asterisks next to, both of their names on the checklist. While this office will not be looking into this complaint any further, we provide the following information regarding the voter check-in process.

Senate Bill 289 ("SB 289"), the photo identification law passed by the Legislature, does not provide for ballot clerks to circle, or put asterisks next to, the names of voters who do not present valid photo identification. SB 289 states, "[t]he ballot clerks shall tally the number of voters that do not present [] valid photo identification at the September 2012 state primary election, and the town or city clerk shall report the number with the election return." Election officials were trained by the Secretary of State's Office in August to simply make tick marks on a separate piece of paper in order to comply with the tally requirement. Marks should not have been made on the checklist to indicate which voters did not present valid photo identification.

The tally requirement SB 289 was limited to the 2012 State Primary. For the 2012 General Election, a voter who does not present valid photo identification will be allowed to vote after he or she presents a challenged voter affidavit signed by them to the ballot clerk. There will be a space on the new checklist for the ballot clerk to indicate with a check mark that a voter has presented a signed challenged voter affidavit so that the voter's information can be entered into ElectionNet as required by SB 289.

The review into this complaint is now closed. Please do not hesitate to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew G. Mavrogeorge". The signature is fluid and cursive, with a prominent loop at the end.

Matthew G. Mavrogeorge
Assistant Attorney General
Civil Bureau

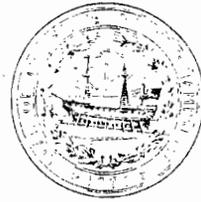
cc: Ann Bardin

817588

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY
ATTORNEY GENERAL



ANN M. RICE
DEPUTY ATTORNEY GENERAL

October 9, 2012

Patsy Wells, Town Moderator
Sanbornton Town Office
573 Sanborn Road
Sanbornton, NH 03269

Re: Voter Complaint

Dear Ms. Wells:

During the State Primary on September 11, 2012, this office received a complaint from a voter regarding the check-in process being used at the Town of Sanbornton polling place. Specifically, the voter alleged that after she told the ballot clerk that she did not have photo identification on her, the ballot clerk wrote her name on a separate piece of paper. It is our understanding that the document containing the list of voters who did not present valid photo identification was destroyed after you spoke with Assistant Attorney General Rosemary Wiant at the polling place. While this office will not be looking into this complaint any further, we provide the following information regarding the voter check-in process.

Senate Bill 289 ("SB 289"), the photo identification law passed by the Legislature, does not provide for ballot clerks to write the names of voters who do not present valid photo identification on a separate piece of paper. SB 289 states, "[t]he ballot clerks shall tally the number of voters that do not present [] valid photo identification at the September 2012 state primary election, and the town or city clerk shall report the number with the election return." Election officials were trained by the Secretary of State's Office in August to simply make tick marks on a separate piece of paper in order to comply with the tally requirement. No voter's name should have been written on a separate piece of paper.

The tally requirement SB 289 was limited to the 2012 State Primary. For the 2012 General Election, a voter who does not present valid photo identification will be allowed to vote after he or she presents a challenged voter affidavit signed by them to the ballot clerk. There will be a space on the new checklist for the ballot clerk to indicate with a check mark that a voter has presented a signed challenged voter affidavit so that the voter's information can be entered into ElectionNet as required by SB 289.

The review into this complaint is now closed. Please do not hesitate to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Matthew G. Mavrogeorge', written in a cursive style.

Matthew G. Mavrogeorge
Assistant Attorney General
Civil Bureau

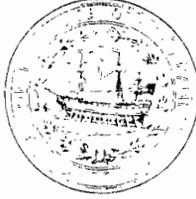
817630

C

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY
ATTORNEY GENERAL



ANN M. RICE
DEPUTY ATTORNEY GENERAL

October 9, 2012

Sandra Allard, Lebanon City Clerk
City Hall
51 North Park Street
Lebanon, NH 03766

Re: Voter Registration Complaint

Dear Ms. Allard:

This office has received a complaint regarding the voter registration process being used for a Dartmouth College student in the Lebanon City Clerk's Office. While we will not be conducting an investigation into this matter, we provide the following information regarding the state of the law for the voter registration form and domicile for college students.

Every inhabitant of this State has a right "to vote in the town, ward, or unincorporated place in which he or she is domiciled." RSA 654:1, I. "An inhabitant's 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." *Id.* Any student in this State "may lawfully claim domicile for voting purposes in the New Hampshire town or city in which he or she lives while attending" school if his or her claim of domicile "otherwise meets the requirements of RSA 654:1, I." RSA 654:1, I-a.

The voter registration form that was used during both the 2010 election cycle and the 2012 Presidential Primary was changed by the Legislature through the passage of Senate Bill 318 ("SB 318"). SB 318 went into effect on August 26, 2012. Subsequently, in the lawsuit of *Rivers v. State of New Hampshire*, Docket No. 219-2012-CV-00458 (Strafford County), the constitutionality of a portion of the language added to the voter registration form by SB 318 was challenged.

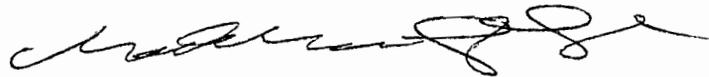
In an Order dated September 24, 2012, the Court in *Rivers* issued a temporary injunction, requiring the Secretary of State to strike the following language from the new voter registration form:

In declaring New Hampshire as my domicile, I am subject to laws of the state of New Hampshire which apply to all residents, including laws requiring a driver to register a motor vehicle and apply for a New Hampshire's driver's license within 60 days of becoming a resident.

Attached for your review are copies of the Orders regarding injunctive relief that have been issued by the Court in *Rivers*. Pursuant to the Court's Order, the Secretary of State has re-issued the registration form without the subject language and has notified every town and city of the State that the re-issued voter registration form must be used in registering new voters.

Please make sure that you and the Supervisors of the Checklist use the re-issued registration form when registering voters. Our review into this complaint is now closed. Should you have any additional questions, please do not hesitate to contact me.

Sincerely,



Matthew G. Mavrogeorge
Assistant Attorney General
Civil Bureau
(603) 271-3650

Enclosure: *Rivers v. State of New Hampshire*, Orders dated 9/24/12 and 10/05/12.

cc: Lebanon Supervisors of the Checklist

817301

ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY
ATTORNEY GENERAL



ANN M. RICE
DEPUTY ATTORNEY GENERAL

October 9, 2012

Kerri Parker, Meredith Town Clerk
41 Main Street
Meredith, NH 03253

Re: Voter Registration Complaint

Dear Ms. Parker:

This office has received a complaint regarding the voter registration process being used for an individual at the Meredith polling place during the State Primary Election on September 11, 2012. While we will not be conducting an investigation into this matter, we provide the following information regarding the state of the law for the voter registration form.

The voter registration form that was used during both the 2010 election cycle and the 2012 Presidential Primary was changed by the Legislature through the passage of Senate Bill 318 ("SB 318"). SB 318 went into effect on August 26, 2012. Subsequently, in the lawsuit of *Rivers v. State of New Hampshire*, Docket No. 219-2012-CV-00458 (Strafford County), the constitutionality of a portion of the language added to the voter registration form by SB 318 was challenged.

In an Order dated September 24, 2012, the Court in *Rivers* issued a temporary injunction, requiring the Secretary of State to strike the following language from the new voter registration form:

In declaring New Hampshire as my domicile, I am subject to laws of the state of New Hampshire which apply to all residents, including laws requiring a driver to register a motor vehicle and apply for a New Hampshire's driver's license within 60 days of becoming a resident.

Attached for your review are copies of the Orders regarding injunctive relief that have been issued by the Court in *Rivers*. Pursuant to the Court's Order, the Secretary of State has re-issued the registration form without the subject language and has notified every town and city of the State that the re-issued voter registration form must be used in registering new voters.

Please make sure that you and the Supervisors of the Checklist use the re-issued registration form when registering voters. Our review into this complaint is now closed. Should you have any additional questions, please do not hesitate to contact me.

Sincerely,



Matthew G. Mavrogeorge
Assistant Attorney General
Civil Bureau
(603) 271-3650

Enclosure: *Rivers v. State of New Hampshire*, Orders dated 9/24/12 and 10/05/12.

cc: Meredith Supervisors of the Checklist

817307

C

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY
ATTORNEY GENERAL



ANN M. RICE
DEPUTY ATTORNEY GENERAL

October 9, 2012

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

Re: Voter Registration Complaint

Dear Ms. Bonenfant:

This office has received a complaint regarding the voter registration form being used in the Concord City Clerk's Office on September 26, 2012. While we will not be conducting an investigation into this matter, we provide the following information regarding the state of the law for the voter registration form.

The voter registration form that was used during both the 2010 election cycle and the 2012 Presidential Primary was changed by the Legislature through the passage of Senate Bill 318 ("SB 318"). SB 318 went into effect on August 26, 2012. Subsequently, in the lawsuit of *Rivers v. State of New Hampshire*, Docket No. 219-2012-CV-00458 (Strafford County), the constitutionality of a portion of the language added to the voter registration form by SB 318 was challenged.

In an Order dated September 24, 2012, the Court in *Rivers* issued a temporary injunction, requiring the Secretary of State to strike the following language from the new voter registration form:

In declaring New Hampshire as my domicile, I am subject to laws of the state of New Hampshire which apply to all residents, including laws requiring a driver to register a motor vehicle and apply for a New Hampshire's driver's license within 60 days of becoming a resident.

Attached for your review are copies of the Orders regarding injunctive relief that have been issued by the Court in *Rivers*. Pursuant to the Court's Order, the Secretary of State has re-issued the registration form without the subject language and has notified every town and city of the State that the re-issued registration form must be used in registering new voters.

Please make sure that you and the Supervisors of the Checklist use the re-issued registration form when registering voters. Our review into this complaint is now closed. Should you have any additional questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Matthew G. Mavrogeorge', written in a cursive style.

Matthew G. Mavrogeorge
Assistant Attorney General
Civil Bureau
(603) 271-3650

Enclosure: *Rivers v. State of New Hampshire*, Orders dated 9/24/12 and 10/05/12.

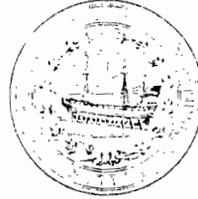
cc: Concord Supervisors of the Checklist
Issac Giroux

817291

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY
ATTORNEY GENERAL



ANN M. RICE
DEPUTY ATTORNEY GENERAL

October 12, 2012

Stanley Swier, Moderator
Town of Barrington
P.O. Box 660
333 Calef Highway (Rte. 125)
Barrington, NH 03825

Re: Double Voting

Dear Mr. Swier:

During the State Primary on September 11, 2012, this office received an email from Assistant Secretary of State Anthony Stevens alleging that Edward Brideau of the Town of Barrington may have voted twice in the 2012 State Primary. Mr. Stevens reported that he was advised by Barrington Town Clerk Kim Kerekes that Mr. Brideau voted both in person and via absentee ballot. As a result of this complaint, this office conducted an investigation.

On September 13, 2012, Mark Myrdek, an investigator with this office, spoke with Mr. Brideau about this complaint. Mr. Brideau explained that he went to the town clerk's office about three weeks before the State Primary to apply for an absentee ballot for the General Election in November. He said that he informed the Clerk that he would be out of state at the time of the election. Mr. Brideau stated that he assumed that the Clerk understood that by election he meant the General Election. Mr. Brideau explained that when he filled out the absentee ballot, he thought that it was for the General Election. He told Investigator Myrdek that when he went to vote in person at the State Primary he did not realize that he had already filled out an absentee ballot for that election. He stated that he did not intend to vote twice in the State Primary.

On September 13, 2012, Investigator Myrdek spoke with Ms. Kerekes, who stated that it was a mistake that the checklist was not reviewed as the absentee ballots were being processed on the day of the election. Investigator Myrdek informed Ms. Kerekes that Mr. Brideau would be requesting an absentee ballot for the General Election. She indicated that she would follow up on this.

RSA chapter 657 governs absentee voting in all New Hampshire elections, including town elections. See RSA 669:29. RSA 657:1, states:

Any person who is absent on the day of any state election from the city, town, or unincorporated place in which he or she is registered to vote or who cannot appear in public on any election day because of his or her observance of a religious commitment or who is unable to vote there in person by reason of physical disability may vote at such elections as provided in this chapter. A person who is unable to appear at any time during polling hours at his or her polling place because an employment obligation requires the person to remain physically at work or to be in transit to or from work from the time the polls open until after the time the polls close shall be considered absent for purposes of this chapter.

RSA 657:1. Thus, an individual who is able to go to the polling place to vote on Election Day cannot vote via absentee ballot. Anyone who votes or attempts to vote via absentee ballot “who is not entitled to vote by absentee ballot . . . shall be guilty of a misdemeanor.” RSA 657:24.

While we find that Mr. Brideau was able to go to the polling place during the State Primary, we conclude that he did not intentionally submit an absentee ballot for that election. We conclude that Mr. Brideau intended to submit an absentee ballot for the General Election and that he believed that he was filling out such an absentee ballot when he was actually filling out a State Primary absentee ballot. This error appears to have occurred due to a miscommunication between Mr. Brideau and Ms. Kerekes, and Mr. Brideau’s failure to carefully review the ballot before he voted absentee. Accordingly, this office will not be taking any enforcement action against Mr. Brideau.

During an election, the Moderator is required to begin processing absentee ballots at 1:00 pm. RSA 659:49. Upon removing an absentee ballot from its envelope, the Moderator is required to have a checkmark placed next to the absentee voter’s name on the checklist and write the letters “A.V.” in red ink therein before the ballot is deposited in the ballot box. RSA 659:52. Once the letters “A.V.” have been written on the checklist next to the name of a voter who has voted by absentee ballot, that voter “shall not be permitted to vote in person.” RSA 659:55. Thus, an absentee ballot voter who had ends up not being absent on the day of the election, could vote in person if they can get to the polling place before the absentee ballots are processed.

If during the processing of an absentee ballot the Moderator finds that the absentee voter is not entitled to vote, the Moderator is required to write the reason for the rejection of the ballot on both the envelope and the Clerk’s list of absentee voter applicants. RSA 659:53. One of the reasons for rejecting an absentee ballot and finding that an absentee voter is not entitled to vote is that the voter “voted in person.” *Id.* In other words, before an absentee ballot can be accepted and deposited into the ballot box, the Moderator must inspect the official checklists being used by the ballot clerks at the polling place to determine whether the absentee voter voted in person prior to the processing of the absentee ballot.

As described above, New Hampshire election laws are set up with protections in place to ensure that individuals cannot vote both by absentee ballot and in person at the polling place. The fact that Mr. Brideau was able to do so means that the laws were not followed by either you (if he voted in person *before* you processed the absentee ballots) or a ballot clerk (if he voted in person *after* you processed the absentee ballots). **The processing of absentee ballots in future elections must be done in a manner consistent with New Hampshire law as described above.**

The investigation into this matter is now closed. Please do not hesitate to contact me if you have any questions.

Sincerely,



Matthew Mavrogeorge
Assistant Attorney General
Civil Bureau
(603) 271-3650

cc: Kimberly Kerekes, Barrington Town Clerk
Edward N. Brideau

818584

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY
ATTORNEY GENERAL



ANN M. RICE
DEPUTY ATTORNEY GENERAL

October 12, 2012

Douglas S. Ring

[REDACTED]
Charlestown, NH 03603

Re: Voting Complaint

Dear Mr. Ring:

On September 20, 2012, this office received a complaint by you concerning your inability to vote during the 2012 State Primary. Specifically, you allege that a State Trooper told you to stay away from the Charlestown Town Hall, which serves as the town's polling place during elections. As a result of your complaint, this office conducted an investigation.

On September 24, 2012, Mark Myrdek, an investigator with this office, spoke with you about your complaint. You told Investigator Myrdek that you are being investigated by Sergeant Joe Dirusso of State Police Troop C regarding a complaint that you committed a theft from the Town of Charlestown. You stated that as a result of animosity and hostility that has built up between you and town officials, Sergeant Dirusso suggested that you should stay away from the Charlestown Town Hall until his investigation is complete. You told Investigator Myrdek that as a result of Sergeant Dirusso's advice, you did not go to the town hall to vote in the State Primary on September 11, 2012. However, you acknowledged that Sergeant Dirusso never told you to stay away from the town hall during elections and that the subject did not come up.

You expressed a concern to Investigator Myrdek that you would not be able to vote during the State General Election on November 6, 2012. It is our understanding that, other than Sergeant Dirusso's suggestion, you are under no court order to stay away from the town hall. If this is not correct, you should consult with your attorney about any such court order. As Investigator Myrdek explained to you, as long as you are qualified to vote in Charlestown, you can go to the town hall on Election Day and vote.

On September 25, 2012, Investigator Myrdek informed Sullivan County Attorney Marc Hathaway about his conversation with you. Attorney Hathaway stated that Investigator Myrdek's instructions to you were proper and that they would not interfere with his case.

Douglas S. Ring

Page 2

On September 27, 2012, Investigator Myrdek spoke with Sergeant Joe Dirusso about your complaint. Sergeant Dirusso explained that during his interview with you, he did suggest that you stay away from the town hall. However, he stated that he did not think about elections and what impact his advice might have had on you going to the town hall to vote. Sergeant Dirusso stated that it was never his intention to keep you from voting.

This office concludes that while Sergeant Dirusso recommended that you stay away from the town hall, he never expressly told you that you could not go to the town hall to vote during elections. Any question that you had regarding your ability to vote in the State Primary should have been raised before September 11, 2012. As long as you are qualified to vote in the Town of Charlestown, you may vote at the town hall in the General Election on November 6, 2012.

Thank you for bringing this matter to our attention. Our investigation is now closed. Should you have any questions, please do not hesitate to contact me.

Sincerely,



Matthew G. Mavrogeorge
Assistant Attorney General
Civil Bureau
(603) 271-3650

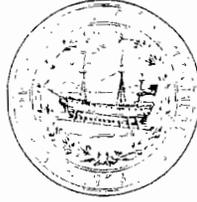
cc: Marc Hathaway, Sullivan County Attorney
Sergeant Joe Dirusso
Geoffrey Ward, Esq.

818089

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY
ATTORNEY GENERAL



ANN M. RICE
DEPUTY ATTORNEY GENERAL

October 15, 2012

Leslie Mallett, Town Clerk/Tax Collector
Town of Bartlett
56 Town Hall Road
Intervale, NH 03845

Also sent via email to bartletttownclerk@roadrunner.com

Re: Brandon and Jamie McCrillis

Dear Ms. Mallett:

In August 2012, Assistant Secretary of State Anthony Stevens referred an issue to this office regarding a Federal Post Card Application ("FPCA") that you received from an uniformed service member named Brandon McCrillis. Mr. Stevens forwarded an email that you had sent to his office explaining that ElectioNet does not show a prior voter registration for Brandon McCrillis, who did not list a prior voting address on his FPCA. You stated in your email that the New Hampshire address that Mr. McCrillis listed on his FPCA belongs to a resort that sells timeshare weeks, and that he listed a P.O. Box in Grovetown, Georgia as his current address. As a result of your email, this office conducted an investigation.

Early in the investigation it was discovered that the Town of Bartlett also received a FPCA from Mr. McCrillis' wife, Jamie McCrillis. Copies of both FPCAs were forwarded to this office. These FPCAs were dated July 25, 2012.

On August 13, 2012, you mailed and emailed absentee ballots to Mr. and Mrs. McCrillis for the State Primary. The provision of these ballots was followed up by an email to them stating, there is a question with respect to whether the New Hampshire address that they listed on their FPCA is legitimate. You then requested that they provide you with information regarding the subject New Hampshire address, including details about when they lived there in relation to Mr. McCrillis' current military service. You subsequently informed me that these absentee ballots were never returned by Mr. and Mrs. McCrillis.

As part of this office's investigation, we enlisted the assistance of Chief Timothy Connify of the Bartlett Police Department. On September 19, 2012, Chief Connify informed

Mark Myrdek, an investigator with this office, about the results of his inquiry. According to Chief Connifey, Mr. and Mrs. McCrillis own a one week timeshare at the facility that corresponds to the address that they listed on their FPCAs. The timeshare was previously owned by Mr. McCrillis' parents who now live in Maine. Chief Connifey determined that Mr. and Mrs. McCrillis stayed at their timeshare from April 8 through April 22, 2012. They stayed for the week that they own and they purchased a second week. Mr. and Mrs. McCrillis registered their timeshare using the same Georgia mailing address that they listed on their FPCAs. Chief Connifey also determined that they were operating a motor vehicle that is registered in Georgia. Lastly, Chief Connifey informed Investigator Myrdek that the subject New Hampshire address is only a timeshare resort and it has never been available as a residence.

On October 15, 2012, you informed me that you had a phone conversation with Mr. McCrillis sometime in September 2012. You stated that Mr. McCrillis informed you that his home of record immediately prior to entering into the service was Portland, Maine, but that he and his wife have plans to live in New Hampshire someday. You told me that Mr. McCrillis thought that he could start voting in New Hampshire now because him and his wife have a deeded timeshare week here.

RSA 654:3 reads in pertinent part:

- I. Absent uniformed services voters. An absent uniformed services voter, being a citizen of the United States and being at least 18 years of age as provided in Article 11 of Part First of the constitution of New Hampshire, shall have the right to vote absentee in any state election in the town or city in New Hampshire in which he or she had his or her domicile immediately prior to service, even though he or she no longer maintains domicile in said town or city and even though his or her intent to return thereto is uncertain, provided:
- (a) He or she complies with all other applicable requirements and qualifications of the state of New Hampshire.
 - (b) He or she is not registered to vote in any other state or election district of a state, or in any territory or possession of the United States.

RSA 654:3, I (a)-(b) (emphasis added). An absent uniformed services voter does include the spouse of a military member who, "by reason of the active duty or service of the member, is absent from the place of residence in New Hampshire where the spouse . . . is otherwise qualified to vote." RSA 652:16-c, III.

Mr. and Mrs. McCrillis would only be able to vote via absentee ballot in Bartlett under RSA 654:3 if they were domiciled in Bartlett immediately prior to Mr. McCrillis' service. In an effort to assist the supervisors of the checklist with their decision as to whether or not to place Mr. and Mrs. McCrillis on the checklist for the General Election, or to assist the election officials with their decision as to whether or not to challenge Mr. and Mrs. McCrillis' domicile qualifications when any absentee ballots of theirs are being processed at the polling place during

the General Election, we provide the following advisory statement. Under the circumstances revealed during this investigation and described above, this office would not consider Mr. and Mrs. McCrillis as being domiciled in New Hampshire immediately prior to Mr. McCrillis' service.

Thank you for bringing this matter to our attention. Should you have any additional questions, please do not hesitate to contact me.

Sincerely,



Matthew G. Mavrogeorge
Assistant Attorney General
Civil Bureau
(603) 271-3650

cc: David Scanlan, Deputy Secretary of State
Chief Timothy Connifey, Bartlett Police Department
Town of Bartlett Supervisors of the Checklist
Robert Clark, Town of Bartlett Moderator
Brandon and Jamie McCrillis

MGM

819563

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY
ATTORNEY GENERAL

ANN M. RICE
DEPUTY ATTORNEY GENERAL



October 15, 2012

Winston Gouzoules, Supervisor of the Checklist
Town of Greenland
P.O. Box 100
575 Portsmouth Avenue
Greenland, NH 03840-0100

Re: House Bill 1704

Dear Mr. Gouzoules:

On June 14, 2012, this office received a complaint from you, alleging that John Nyhan was not domiciled in the Town of Greenland. You stated that you had spoken to the owners of the property that Mr. Nyhan listed as his address on both his driver's license and his voter registration form, and they informed you that Mr. Nyhan has never lived there. As a result of your complaint, this office conducted an investigation.

On June 26, 2012, Mark Myrdek, an investigator with this office, spoke with Alison Brackett about this complaint. Mrs. Brackett and her husband, Thomas, own the property on Brackett Point that Mr. Nyhan is claiming as his domicile. Mrs. Brackett informed Investigator Myrdek that nobody by the name of John Nyhan has ever lived at the subject address.

In September, 2012, this office was contacted by the Greenland Town Clerk's Office because Mr. Nyhan had requested an absentee ballot for the 2012 General Election. In an email dated September 21, 2012, Greenland Town Clerk Marge Morgan informed Mr. Nyhan that the town has some concerns about whether he is domiciled in Greenland. Attached to the email was an absentee ballot, a UOCAVA affidavit and instructions for completing the absentee voting process.

On October 9, 2012, Investigator Myrdek spoke with Detective Dave Kurkul of the Greenland Police Department. Detective Kurkul stated that he has reviewed several documents provided to Ms. Morgan by Mr. Nyhan, and concluded that Mr. Nyhan sub leased the subject property without Mrs. Brackett's knowledge or approval.

Around the same time that Investigator Myrdek spoke with Detective Kurkul, you left me a voicemail stating that you have received information that Mr. Nyhan has sub leased the

property on Brackett Point and therefore, Greenland appears to be his domicile. You stated that there was no need for this office to continue looking into this issue.

Thank you for bringing this matter to our attention. Our review into your complaint is now closed. Please do not hesitate to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Matthew G. Mavrogeorge', with a long horizontal flourish extending to the right.

Matthew G. Mavrogeorge
Assistant Attorney General
Civil Bureau
(603) 271-3650

cc: Marge Morgan, Greenland Town Clerk
Detective Dave Kurkul, Greenland Police Department

MGM

819303

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY
ATTORNEY GENERAL



ANN M. RICE
DEPUTY ATTORNEY GENERAL

October 16, 2012

Re: Voter Registration & Check-in

Dear Election Official:

With the General Election just weeks away, this office is issuing this letter to remind election officials of the proper process for registering, and checking in, voters as set forth in law.

Introduction:

The purpose of voter registration in New Hampshire is to allow qualified citizens to exercise their right to vote under Part I, Article 11 of the New Hampshire Constitution. Any person registering to vote shall be:

- (a) At least 18 years of age on the day of the election;
- (b) A United States citizen; and
- (c) Domiciled in the town or city in which the applicant is registering to vote and not otherwise disqualified to vote.

RSA 654:7.

Each person desiring to register to vote must fill out a standard voter registration form. *Id.* When an applicant has completed a voter registration form, the supervisors of the checklist, or the town or city clerk, must require the applicant to present proof of citizenship, age and domicile. RSA 654:12, I. The determination of an applicant's qualifications to vote, and thus whether or not their name gets added to the checklist, is a judgment that the supervisors of the checklist must make. *See* RSA 654:12, II; *see also* RSA 654:13.

An applicant must be placed on the checklist unless a majority of the supervisors of the checklist agree that it is more likely than not that the applicant is not qualified to vote. RSA 654:12, II(c). If the supervisors of the checklist "decide not to add the name of the applicant to the checklist, they shall send notification in writing to the applicant within 7 days stating the reason for the denial." RSA 654:13, II. Any applicant may file a complaint with the superior court stating that his or her name "has been illegally kept from the checklist" and asking the court to add his or her name to the checklist. RSA 654:14.

Identity:

An applicant must prove his or her identity to establish that the evidence used to prove age, citizenship, and domicile relate to the applicant. If an applicant has any one of the following in his or her immediate possession, he or she must present it when applying for registration:

- (1) Photo driver's license issued by any state or the federal government
- (2) United States passport, armed services identification, or other photo identification issued by the United States government.
- (3) Photo identification issued by local or state government.

RSA 654:12, II(b), III.

The above forms of identification are considered presumptive evidence of the identity of an applicant. RSA 654:12, II(b). The supervisors of the checklist may approve other forms of photo identification that they deem to be reasonable. RSA 654:12, II, III. An applicant who does not have one of the approved photo identifications described above (including photo identification approved by the supervisors of the checklist) at the time and place of registration may establish identity through the completion of a qualified voter affidavit. RSA 654:12, III (emphasis added).

Citizenship:

Any one of the following must be accepted as proof of citizenship: "the applicant's birth certificate, passport, naturalization papers if the applicant is a naturalized citizen," or any other reasonable documentation which indicates that the applicant is a United States citizen. RSA 654:12, I(a). An applicant, who does not have any of these documents to establish U.S. citizenship at the time and place of registration, may establish citizenship through the completion of a qualified voter affidavit. *Id.* (emphasis added).

Age:

An applicant may show "[a]ny reasonable documentation" to establish that he or she "will be 18 years of age or older the next election []." RSA 654:12, I(b). An applicant, who does not have reasonable documentation establishing their age in his or her possession at the time and place of registration, may establish age through the completion of a qualified voter affidavit. *Id.* (emphasis added).

Domicile:

A person must have a domicile in the town or ward in which he or she seeks to register to vote. Domicile "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. A person has the right to change domicile at any time, however a mere intention to change domicile in the future does not, of itself, terminate an established domicile before the person actually moves." RSA 654:1, I. "A

student of any institution of learning may lawfully claim domicile for voting purposes in the New Hampshire town or city in which he or she lives while attending such institution of learning if such student's claim of domicile otherwise meets the requirements of RSA 654:1, I." RSA 654:12, I-a.

Any one of the following documents is considered presumptive evidence that the applicant meets the domicile requirement, "provided the document is currently valid, was issued to or in the name of the applicant, and shows the address the applicant claims as domicile:"

- (1) New Hampshire driver's license.
- (2) New Hampshire vehicle registration.
- (3) Armed services identification, or other photo identification issued by the United States government.

RSA 654:12, II(a).

An applicant may present "[a]ny reasonable documentation" that indicates his or her domicile. RSA 654:12, I(c). An applicant, who does not have reasonable documentation establishing their domicile in his or her possession at the time and place of registration, may establish domicile through the completion of a domicile affidavit. *Id.* (emphasis added).

Voter Check-in:

New Hampshire law now requires ballot clerks to request that voters present photo identification when they check-in to vote at the polling place. See RSA 659:13, I. The following forms of photo identification satisfy the identification requirement:

- a. A driver's license issued by any state, even if expired;
- b. An ID card issued by the NH DMV under RSA 260:21;
- c. A non-driver photo ID issued by any state, even if expired;
- d. A United States Armed Services ID card;
- e. A United States Passport, even if expired;
- f. Any other valid photo ID card issued by federal, state, county or municipal government;
- g. A valid student ID card;
- h. Other photo ID deemed legitimate by the Supervisors of the Checklist, the Moderator or the Clerk (not a Ballot Clerk), or
- i. A Verification of the person's identity by the Moderator, a Supervisor of the Checklist or the Clerk (not a Ballot Clerk).

RSA 659:13, II.

If a voter does not have sufficient photo identification, he or she is still able to vote and have their ballot counted with all other ballots on Election Day so long as they sign a challenged voter affidavit. RSA 659:13, I. It is recommended that the polling place be arranged so that a "No Photo

Election Official
Re: Voter Registration & Check-in
October 16, 2012
Page 4

ID” table is placed near the entrance to provide voters without photo identification an opportunity to sign a challenged voter affidavit before they get into the check-in line. The “No Photo ID” table should contain a copy of the official checklist and multiple copies of the challenged voter affidavit. The table should be staffed by individuals who are able sign challenged voter affidavits.¹

Conclusion:

Under no circumstances should an applicant be turned away at the time and place of registration. Applicants who do not have documentation with them to establish their qualifications should not be told to go get such documentation in order to become registered to vote. Rather, they must be given the opportunity to sign a qualified voter affidavit (for identity, age or citizenship) or a domicile affidavit (for domicile).

Similarly, under no circumstances should a voter be turned away at the time and place of check-in for failing to present sufficient photo identification. If a voter does not present photo identification when checking in to vote, they should not be told to go get such identification in order to vote. Rather, they must be given the opportunity to sign a challenged voter affidavit.

This office appreciates your dedication to this State’s election process. It is because of the hard work by election officials, such as yourself, that our elections continue to be a model for other states to follow. Should you have any questions, please do not hesitate to contact me.

Sincerely,



Matthew G. Mavrogeorge
Assistant Attorney General
Civil Bureau
(603) 271-3650

cc: William M. Gardner, Secretary of State
David M. Scanlan, Deputy Secretary of State

Enclosure: Documentation Chart
819887

¹ The following individuals are authorized to sign challenged voter affidavits: moderator, deputy moderator, assistant moderator, town clerk, deputy town clerk, city clerk, deputy city clerk, ward clerk, selectman, supervisor of the checklist, registrar, deputy registrar, notary public and justice of the peace.

**Types of Documentation Authorized by New Hampshire Law for
Voter Registration and Election Day Check-In**

Documentation	IDENTITY	AGE	CITIZENSHIP	DOMICILE	Election Day Check-In (until 9/1/13)
Photo driver's license or non-driver's license issued by any state	✓	✓ (if deemed reasonable by supervisors)			✓ (even if expired)
Photo driver's license or non-driver's license issued by the federal government	✓	✓ (if deemed reasonable by supervisors)			✓
Valid New Hampshire driver's license issued to or in the name of the applicant	✓	✓ (if deemed reasonable by supervisors)		✓ (must show the address the applicant claims as domicile)	✓ (even if expired)
United States passport (or passport card)	✓	✓ (if deemed reasonable by supervisors)	✓		✓ (even if expired)
Valid United States armed services identification	✓			✓ (must show the address the applicant claims as domicile)	✓
Naturalization papers if the applicant is a naturalized citizen			✓		
Valid New Hampshire vehicle registration issued to or in the name of the applicant				✓ (must show the address the applicant claims as domicile)	
Birth certificate		✓ (if deemed reasonable by supervisors)	✓		
Qualified Voter Affidavit	✓	✓	✓		
Domicile Affidavit				✓	
Challenged voter affidavit					✓
Any reasonable documentation to establish that he or she will be 18 years of age or older the next election		✓			
Photo identification deemed reasonable by supervisors of the checklist	✓				✓ (if deemed legitimate by the supervisors, moderator or clerk)
Any documentation deemed reasonable by the supervisors of the checklist			✓	✓	
Valid photo identification issued by the United States government	✓			✓ (must show the address the applicant claims as domicile)	✓
Photo identification card "for voting purposes only" issued by the NH DMV	✓				✓
Valid photo identification issued by state, county or municipal government	✓				✓
Valid student identification card	✓ (if deemed reasonable by supervisors)				✓
Identity verified by supervisor of the checklist, moderator or clerk					✓

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY
ATTORNEY GENERAL



ANN M. RICE
DEPUTY ATTORNEY GENERAL

October 17, 2012

Margaret Ives, Moderator
Town of Derry
14 Manning St.
Derry, NH 03038

Re: Election Law Complaint – Ballot Shortage

Dear Ms. Ives:

On September 12, 2012, this office received a complaint from Maureen Rose. Ms. Rose alleged that on September 11, 2012, at approximately 5:00 p.m. at the Hood Middle School polling place in the Town of Derry, she witnessed police delivering additional ballots following a shortage. As a result of the complaint, this office conducted an investigation.

You have explained to Investigator Mark Myrdek that during the State Primary, you were required to make three trips to retrieve additional ballots from other Derry polling locations as a result of shortages of official ballots at the Hood Middle School polling place. Further, you stated that a police officer also made a trip to pick up additional ballots. Voters were told they could wait for additional ballots in order to vote.

It is your responsibility to ensure that there are enough ballots available for all the voters in an election. In the first instance, this requires you to predict the likely turnout at each polling location based on the circumstances of each election. More importantly, however, it is your responsibility to ensure that, in the unlikely event that your best estimates as to turnout are inaccurate, that there is a procedure in place to ensure that enough additional ballots can be retrieved. A process should be in place for copies to be made of ballots before you run out of them.

While this office will not be taking any action against you regarding this incident, you must take the steps necessary to prevent your polling place from running out of ballots in future elections.

Margaret Ives, Moderator, Town of Derry
Re: Election Law Complaint – Ballot Shortage
October 17, 2012
Page 2

The investigation into this complaint is now closed. Please do not hesitate to contact me if you have any questions.

Sincerely,



Brian Buonamano
Attorney - Civil Bureau
(603) 271-3671
Fax: (603) 223-6214

cc: Maureen Rose
818892

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY
ATTORNEY GENERAL



ANN M. RICE
DEPUTY ATTORNEY GENERAL

October 17, 2012

Walter Fleury

[REDACTED]
Greenville, NH 03048

Re: Election Law Complaint – Use of Pencils to Mark Ballot

Dear Mr. Fleury:

This office has received your complaint regarding the use of pencils to mark ballots at the Town of Greenville polling place. You are concerned that your ballot could be erased and your vote changed.

RSA 658:9, I governs the type of ballot marking utensils used in state elections. Specifically, it states that polling places shall be supplied with “a ballot box and a sufficient number of pens with machine-readable ink *or soft black lead pencils...*” (emphasis added). This statute was amended in 2008 to include machine readable pens *in addition* to soft black lead pencils. Prior to that amendment, the only acceptable ballot marking utensil was a “soft black lead pencil.”

We conclude that the Town of Greenville’s use of pencils for marking ballots does not violate New Hampshire election laws. It should be noted that under RSA 659:36, election officials are subject to criminal penalties for changing a voter’s vote or making any unauthorized marks on an official ballot.

Let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Buonamano".

Brian Buonamano
Attorney
Civil Bureau
(603) 271-3671
Fax: (603) 223-6214

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY
ATTORNEY GENERAL



ANN M. RICE
DEPUTY ATTORNEY GENERAL

October 17, 2012

Nikki Wheeler



Belmont, NH 03220-0310

Re: Electioneering Complaint

Dear Ms. Wheeler:

Our office has received a complaint from Cynthia DeRoy alleging that while acting as a poll worker in the Town of Belmont election on August 21, 2012, you made comments to voters within the guardrail about voting against a warrant article. Specifically, she alleges that while she was near the check-in table, she overheard you voice your opinion about voting "NO" on the article regarding the purchase of some land. She claimed you were having a discussion with another poll worker named Brenda Paquette. As a result of the complaint, this office opened an investigation.

This office spoke with Brenda Paquette about this complaint. She explained that she did discuss the warrant article with you, but she did not ever discuss her views on the warrant article to voters coming in to vote. She acknowledged, however, that the conversation could have been loud enough for a voter coming in to hear. She does not recall any specific person who might have overheard a conversation about the warrant article. Ultimately, she denied trying to influence any voters.

Similarly, you acknowledged that you discussed your feelings on the warrant article with Brenda Paquette. You also acknowledged that your conversation could have been loud enough for a voter to overhear, but that you were not trying to get voters to listen or influence their vote. You stated further that you have been a poll worker for over 15 years and that you are aware of the electioneering statute.

Nikki Wheeler, Belmont Town Offices
Re: Electioneering Complaint
October 17, 2012
Page 2

We conclude that you did not intend to influence any voters while you were discussing your views on the warrant article with Brenda Paquette. This conversation, however, was overheard by at least one individual. Such conversation was inappropriate in light of your proximity to the check-in table. A conversation between poll workers about the topics on the ballot increases the likelihood that voters may perceive the existence of electioneering activity. For this reason, we strongly discourage any discussion of election topics among poll workers. While we understand that such conversations are tempting during a long election day, they should not take place while you are working at the polling place.

The investigation into this complaint is now closed. Please do not hesitate to contact me if you have any questions.

Sincerely,



Brian Buonamano
Attorney
Civil Bureau
(603) 271-3671
Fax: (603) 223-6214

cc: Cynthia DeRoy, Belmont Clerk/Tax Collector
Tom Garfield, Belmont Moderator

ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY
ATTORNEY GENERAL



ANN M RICE
DEPUTY ATTORNEY GENERAL

October 18, 2012

Meghan Graves

[REDACTED]
Peterborough, NH 03458

Re: Voter Registration Complaint

Dear Ms. Graves:

As a follow-up to the issue that you raised, enclosed please find a copy of a letter that was sent to the election officials in Peterborough.

Please do not hesitate to contact me if you have any questions. Thank you for bringing this matter to our attention.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew G. Mavrogeorge".

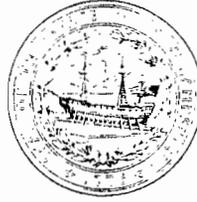
Matthew G. Mavrogeorge
Assistant Attorney General
Civil Bureau

MGM/sd
Enclosure
821257

ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY
ATTORNEY GENERAL



ANN M. RICE
DEPUTY ATTORNEY GENERAL

October 18, 2012

Nancy Gillam

[REDACTED]
Lyndeborough, NH 03082

Re: Voter Registration Complaint

Dear Ms. Gillam:

As a follow-up to the issue that you raised, enclosed please find a copy of a letter that was sent to the election officials in Lyndeborough.

Please do not hesitate to contact me if you have any questions. Thank you for bringing this matter to our attention.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew G. Mavrogeorge".

Matthew G. Mavrogeorge
Assistant Attorney General
Civil Bureau

MGM/sd
Enclosure
821176

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY
ATTORNEY GENERAL



ANN M. RICE
DEPUTY ATTORNEY GENERAL

October 18, 2012

Ariana Ochoa Camacho

[REDACTED]
Hanover, NH 03755

Re: Voter Registration Complaint

Dear Ms. Camacho:

As a follow-up to the issue that you raised, enclosed please find a copy of a letter that was sent to the election officials in Hanover.

Please do not hesitate to contact me if you have any questions. Thank you for brining this matter to our attention.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew G. Mavrogeorge".

Matthew G. Mavrogeorge
Assistant Attorney General
Civil Bureau

MGM/sd
Enclosure
821241

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY
ATTORNEY GENERAL



ANN M. RICE
DEPUTY ATTORNEY GENERAL

October 22, 2012

Willis Kelly, Moderator
Town of Jackson

Re: Election Law Complaint – Electioneering Activity at Polling Place

Dear Moderator Kelly:

Our office has received a complaint from Frank Benesh, alleging that, by your actions, he was prohibited from engaging in electioneering activity outside the polling place. In order to comply with the 200 foot restriction established by the Town of Jackson on election day, he alleges he would have been required to leave the parking lot and go across the street. He also alleges that he was prohibited from engaging in the same activity on private property adjacent to the polling place.

As a result of the complaint, this office conducted an investigation. We have discussed the matter with you. We have also discussed this matter with the complainant, Frank Benesh.

Under RSA 659:43 the moderator has discretion to set a zone around the entrance in which no electioneering is permitted. In pertinent part, RSA 659:43 sets out that:

[n]o person who is a candidate for office or who is representing or working for a candidate shall distribute any campaign materials or perform any electioneering activities or any activity which affects the safety, welfare and rights of voters within a corridor 10 feet wide and extending a distance from the entrance door of the building as determined by the moderator where the election is being held.

The moderator's discretion in this regard, however, is not limitless. First, RSA 31:41-c sets out the outer limits of a town's authority to prohibit electioneering activity at a polling place. As the Town election official, these limitations, by implication, apply to the moderator's authority under RSA 659:43. Specifically, it states:

[s]uch power shall not extend to the display of printed or written matter attached to any legally parked motor vehicle, nor shall such power extend to activities conducted wholly on *private property* so as not to interfere with people approaching or entering a polling place.

RSA 31:41-c (emphasis added).

The United States Supreme Court, moreover, has explained that a town is subject to constitutional limitations in how far it may extend a non-electioneering zone from the entrance to a polling place. While acknowledging that “a state indisputably has a compelling interest in preserving the integrity of its election process... [,]” the state may not prohibit any and all electioneering activity such that voters entering a polling place are not able, without great effort, to speak with candidates or their supporters if they so choose. *Burson v. Freeman*, 504 U.S. 191, 199 (1992). As the Court in *Burson* explained, “...the First Amendment has its fullest and most urgent application to speech uttered during a campaign for political office.” *Id.* at 196. For this reason, the Court noted that “[a]t some measurable distance from the polls, of course, governmental regulation of vote solicitation could effectively become an impermissible burden...” *Id.* at 210. Under this formulation, the Court held in *Burson* that a requirement that solicitors stand 100 feet from a polling place was not an unconstitutional burden. *Id.* at 211.

There is no precise distance where a state may assume with certainty that the non-electioneering zone will not be so broad as to be unconstitutional. The constitutionality of a zone restriction on electioneering depends on whether, in that location, the zone is so burdensome as to prevent contact between electioneers and voters. For example, the Sixth Circuit Court of Appeals held that since a no-electioneering zone of 500 feet “was intended to cut off *all* electioneering speech [,]” that it was too large to withstand constitutional scrutiny. *Anderson v. Spear*, 356 F.3d 651, 661. The Court explained, “...based on the pictures of the polling places in the record, [the 500 foot restriction] would place many electioneers far beyond the point where they could come into contact with voters.” *Id.*; *But c.f. Cleveland v. City of Seneca*, 2010 WL 1257566 (held that a 200 foot no-electioneering perimeter around polling place survived constitutional scrutiny).

Accordingly, the Town has the discretion to set and enforce a zone where no electioneering is permitted so long as it is not so broad as to prohibit electioneers at the location from being able to come into contact with voters, should a voter choose to engage with them. In other words, the purpose of the no-electioneering zone is to allow a voter to arrive and depart the polling place without interference by electioneers, but it must not be so burdensome as to make it very difficult for contact between electioneers and voters. You have explained that the 200 foot zone sends electioneers across the street from the polling place and into some additional parking areas. Upon review of the complaint and discussing the matter with both you and the complainant, we conclude that it would be difficult for electioneers to have been able to come into contact with voters at the Whitney Center polling place.

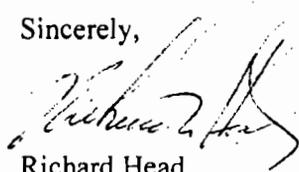
Willis Kelly, Moderator, Town of Jackson
October 22, 2012
Page 3

You have explained that the 200-foot zone has been established by local ordinance. We recommend, therefore, that you discuss these issues with the Jackson Board of Selectmen and/or Town legal counsel.

You have denied Frank Benesh's allegation that you prevented him from electioneering on private property. Further, you have acknowledged that your authority to prohibit electioneering activity does not extend to electioneering on private property.

I trust that the Town of Jackson will adjust the enforcement of the no-electioneering zone accordingly. This investigation into the complaint is now closed. If you have any questions, please do not hesitate to contact me.

Sincerely,



Richard Head
Associate Attorney General
(603) 271-1221

cc: Frank Benesh

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY
ATTORNEY GENERAL



ANN M. RICE
DEPUTY ATTORNEY GENERAL

October 22, 2012

Noel Weinstein

[REDACTED]
New London, NH 03257

Re: Political Sign Complaint

Dear Mr. Weinstein:

On September 18, 2012, this office received a complaint from you, alleging that a number of political signs have been illegally placed along the Interstate I-89 off ramps at exits 2 and 11.

RSA 664:17, which regulates the placement and removal of political signs, states:

No political advertising shall be placed on or affixed to any public property including highway rights-of-way or private property without the owner's consent. All political advertising shall be removed by the candidate no later than the second Friday following the election unless the election is a primary and the advertising concerns a candidate who is a winner in the primary. Signs shall not be placed on or affixed to utility poles or highway signs. Political advertising may be placed within state-owned rights-of-way as long as the advertising does not obstruct the safe flow of traffic and the advertising is placed with the consent of the owner of the land over which the right-of-way passes. 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 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 for one

Noel Weinstein
Re: Political Sign Complaint
October 22, 2012
Page 2

week at a place designated by the state, city, or town so that the candidate may retrieve the items.

RSA 664:17 (emphasis added).

On September 19, 2012, Mark Myrdek, an investigator with this office, contacted Department of Transportation ("DOT") District 5 and informed them about your complaint. A DOT official informed Investigator Myrdek that she would have the District Forman drive to exits 2 and 11 and check for improperly placed signs. She indicated that any improperly placed signs would be removed and brought to the District shed for storage.

Thank you for bringing this matter to our attention. Our inquiry into your complaint is now closed. Should you have any additional questions, please do not hesitate to contact me.

Sincerely,



Matthew G. Mavrogeorge
Assistant Attorney General
Civil Bureau
(603) 271-3650

822098

Mavrogeorge, Matthew

From: Mavrogeorge, Matthew
Sent: Wednesday, October 24, 2012 11:13 AM
To: 'lguyette@townofpeterborough.com'
Subject: voter registration

Importance: High

Linda, thank you for speaking with me the other day. During our conversation, you explained that your office had been asking individuals for the last four digits of their social security number when they register to vote with an out of state driver's license. You explained that you believed that ElectionNet did not provide an option for selecting an out of state driver's license. During our conversation, you checked ElectionNet and realized that it does provide for the selection of an out of state driver's license. Moreover, we went over the fact that the registration form only requires the last four digits of the voter's social security number if no valid driver's license is provided. A copy of the voter registration form that must be used is attached to this email. You also explained during our conversation that prior to the recent clerk's conference, your office probably was telling individuals who were registering to vote that they now had to get a NH driver's license. You explained that based on what you learned at the clerk's conference your office is no longer saying anything regarding obtaining a NH driver's license when individuals register to vote. Attached to this email are two orders that have been issued by the Superior Court in the *Rivers v. State of New Hampshire*. Please review these two orders to make sure that your voter registration process is consistent with the Court's orders. Our inquiry is now closed. Thank you for your cooperation. – Matt Mavrogeorge



Voter Registration
Order 2 .pdf...



Voter Registration
Order.pdf



Voter Reg
d-2012-COURT OR

Matthew G. Mavrogeorge
Assistant Attorney General
Civil Bureau
New Hampshire Department of Justice
33 Capitol Street
Concord, NH 03301
(603) 271-3650 phone
(603) 223-6243 fax

Statement of Confidentiality

The information contained in this electronic message and any attachments to this message may contain confidential or privileged information and are intended for the exclusive use of the intended recipient(s). Please notify the Attorney General's Office immediately at (603) 271-3658 or reply to justice@doj.nh.gov if you are not the intended recipient and destroy all copies of this electronic message and any attachments.

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY
ATTORNEY GENERAL



ANN M. RICE
DEPUTY ATTORNEY GENERAL

October 26, 2012

Holly A. Burbank, Clerk/Tax Collector
City of Franklin
316 Central Street
Franklin, NH 03235

Re: 2012 State Primary Registration Issue

Dear Ms. Burbank:

In a letter dated September 20, 2012, you informed this office that during the 2012 State Primary, an individual registered to vote in ward 3 in the City of Franklin, and that he was already registered to vote. You explained that it was not until after the individual voted that the supervisors of the checklist realized that he was already registered in ward 3. As a result, this office conducted an inquiry.

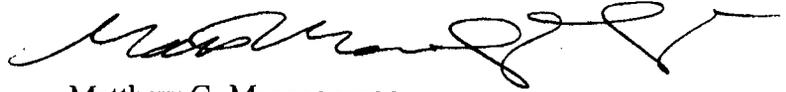
Upon receiving your letter, I contacted Colleen McCormack-Lane at the Secretary of State's Office. Ms. McCormack-Lane explained that her office trains supervisors of the checklist to keep a copy of the official checklist at the registration table during Election Day. They are trained to check the checklist each time an individual approaches the registration table and gives their name. They are told to look for the voter's name on the checklist even if he or she states that they are a new, or first time, voter.

Based on our review of this matter, it appears that while the voter was able to register when he was already registered, he voted only one time. It is important that the supervisors of the checklist follow the above-mentioned procedure during the General Election on November 6, 2012. This will help to ensure that voters do not have to take unnecessary time to go through the registration process when they are already registered to vote there.

Holly A. Burbank, Clerk/Tax Collector, City of Franklin
Re: 2012 State Primary Registration Issue
October 26, 2012
Page 2

Our inquiry is now closed. If you have any questions, please do not hesitate to contact me.

Sincerely,



Matthew G. Mavrogeorge
Assistant Attorney General
Civil Bureau
(603) 271-3650

cc: David Scanlan, Deputy Secretary of State
Cameron Temple, Franklin Moderator
Sarah Wakefield, Franklin Supervisor of the Checklist
822144

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY
ATTORNEY GENERAL



ANN M. RICE
DEPUTY ATTORNEY GENERAL

October 29, 2012

Joyce Cate, Supervisor of the Checklist
Town of Monroe
[REDACTED]

Re: New Hampshire Domicile Inquiry

Dear Ms. Cate:

On June 15, 2012, this office received a letter from you, requesting that we investigate Janice Ziemba. You stated in your letter that Ms. Ziemba registered to vote in the Town of Monroe without being "a resident of this town." As a result of your complaint this office conducted an investigation.

We note from the outset that an individual must be domiciled in a municipality in order to register to vote there. Under Part 1, Art. 11 of the New Hampshire Constitution, "[] every inhabitant of the state of 18 years of age and upwards shall have an equal right to vote in any election." N.H. CONST., pt. 1, art. 11. Every person shall be considered an inhabitant for the purposes of voting in the one "town, ward, or unincorporated place in which he or she is domiciled." RSA 654:1, 1 (emphasis added).

An inhabitant's domicile for voting purposes 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 continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government." *Id.* "Domicile for purposes of voting is a question of fact and intention." RSA 654:2.

"A voter can only have one domicile []." RSA 654:2. An individual's domicile, "once existing, continues to exist until another such domicile is gained." *Id.* "A person has the right to change domicile at any time, however a mere intention to change domicile in the future does not, of itself, terminate an established domicile before the person actually moves." RSA 654:1, 1. "A domicile for voting purposes acquired by any person in any town shall not be interrupted or lost by a temporary absence therefrom with the intention of returning thereto as his or her domicile." RSA 654:2.

Joyce Cate, Supervisor of the Checklist, Town of Monroe
Re: New Hampshire Domicile Inquiry
October 29, 2012
Page 2

On June 27, 2012, Mark Myrdek, an investigator with this office, spoke with Monroe Supervisor of the Checklist Cindy Frazier about this complaint. Ms. Frazier stated that on May 25, 2012, Janice Ziemba registered to vote in Monroe. Ms. Frazier explained that Ms. Ziemba completed and signed both a registration form and a domicile affidavit. Ms. Frazier informed Investigator Myrdek that town officials were concerned that Ms. Ziemba may not be domiciled in Monroe. She stated that the town has received checks from the Ziemba family that listed a Connecticut address, and that when the police have responded to the Ziemba residence in Monroe for alarms, the Ziembas were staying at the Connecticut address.

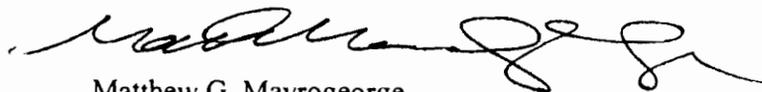
On August 21, 2012, Investigator Myrdek spoke with Ms. Ziemba about this complaint. Ms. Ziemba stated that up until a few months ago, she and her husband spent more than half of the year at their Connecticut home, and their home in Monroe was a part time residence. She explained that she and her husband are now retired and have made the Monroe home their primary home and the place that they will spend most of their time. Ms. Ziemba stated that this is why she registered to vote in Monroe and signed a domicile affidavit. She stated that her checks still show the Connecticut address because she does most of her banking and bill paying online and she did not find it necessary to change her address on her checks for the very few checks that she writes.

In a follow-up conversation, Ms. Frazier informed Investigator Myrdek that Ms. Ziemba came into the town hall and produced an electric bill, which indicated that the Ziembas had stayed in their Monroe home for approximately eight months during 2012.

Under the circumstances revealed during this investigation and described above, this office would consider Ms. Ziemba domiciled in Monroe.

Our review into your complaint is now closed. Thank you for bringing this matter to our attention. Please do not hesitate to contact me if you have any questions.

Sincerely,



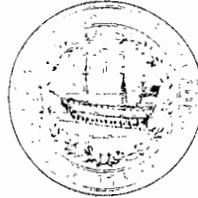
Matthew G. Mavrogeorge
Assistant Attorney General
Civil Bureau
(603) 271-3650

cc: Cindy Frazier, Monroe Supervisor of the Checklist
Janice Cobb Ziemba
824639

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY
ATTORNEY GENERAL



ANN M. RICE
DEPUTY ATTORNEY GENERAL

October 31, 2012

Robert Naber, Supervisor of the Checklist
Town of Mont Vernon
14 Beech Hill Road
Mont Vernon, NH 03057

Re: Ralph Sommese

Dear Mr. Naber:

On September 14, 2012, you asked that our office investigate the validity of a voter's claim in your town that he had his name changed from the name on the Mont Vernon voter checklist. Mont Vernon resident Ralph Sommers voted in the State Primary on September 11, 2012, after informing election officials that he changed his name from Sommers to Sommese. As a result of this complaint, this office conducted an investigation.

On September 25, 2012, Mark Myrdek, an investigator with this office, spoke with you about your complaint. You stated that during the State Primary, an individual checked-in to vote by giving the name Ralph Sommers and asking that his last name on the checklist be changed to Sommese. You explained that the individual then showed a New Hampshire driver's license with the name Ralph Sommese. The individual's name appears as Ralph Sommers on the checklist. You told Investigator Myrdek that you had the Mont Vernon Police check the driver's license with the Department of Motor Vehicles. Upon doing so, the police confirmed that the license was valid. You explained that you allowed Mr. Sommese to vote.

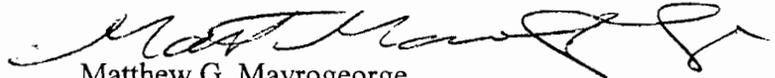
On September 25, 2012, Investigator Myrdek spoke with Mr. Sommese's wife. She explained that her husband's father changed the family name from Sommese to Sommers because of a family disagreement. She stated that a few years ago, her husband legally changed his last name back to Sommese. She noted that she and her husband are still finding documents with the name Sommers on them, including the Mont Vernon voter checklist. Ms. Sommese forwarded a copy of her husband's certificate of name change from Hillsborough County Probate Court to Investigator Myrdek. The certificate shows that Ralph Sommers legally changed his name to Ralph Sommese in September 2006.

Robert Naber, Supervisor of the Checklist, Mont Vernon
Re: Ralph Sommese
October 31, 2012
Page 2

This office concludes that Mr. Sommese has legally changed his last name from Sommers to Sommese and the Mont Vernon voter checklist should reflect this name change.

Our investigation is now complete. Thank you for bringing this matter to our attention. Please do not hesitate to contact me if you have questions concerning the content of this letter.

Sincerely,



Matthew G. Mavrogeorge
Assistant Attorney General
Civil Bureau
(603) 271-3650

cc: Ralph Sommese
825125

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY
ATTORNEY GENERAL



ANN M. RICE
DEPUTY ATTORNEY GENERAL

November 14, 2012

Joshua Graciano
[REDACTED]

Concord, NH 03301

Re: Political Sign Complaint

Dear Mr. Graciano:

On September 25, 2012, this office received a complaint from you, alleging that Ovide Lamontagne for Governor political signs have been improperly placed on public property. You alleged that the signs were primarily placed on medians and on/off ramps for a number of State and Interstate highways. As a result of this complaint, this office conducted an inquiry.

On October 3, 2012, Mark Myrdek, an investigator with this office, faxed a copy of the list of the locations where you alleged that the signs were located to Ovide for Governor Campaign Manager Paul Collins. In a follow up telephone conversation, Mr. Collins informed Investigator Myrdek that the Campaign will remove any improperly placed Ovide for Governor Campaign signs and it would remind individuals who are placing signs for the Campaign to place them in proper locations and only with consent of the landowner.

RSA 664:17, which regulates the placement and removal of political signs, states:

No political advertising shall be placed on or affixed to any public property including highway rights-of-way or private property without the owner's consent. All political advertising shall be removed by the candidate no later than the second Friday following the election unless the election is a primary and the advertising concerns a candidate who is a winner in the primary. Signs shall not be placed on or affixed to utility poles or highway signs. Political advertising may be placed within state-owned rights-of-way as long as the advertising does not obstruct the safe flow of traffic and the advertising is placed with the consent of the owner of the land over which the right-of-way passes. No person shall remove, deface, or knowingly destroy any political

Joshua Graciano
Re: Political Sign Complaint
November 14, 2012
Page 2

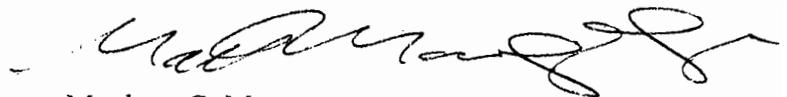
advertising which is placed on or affixed to public property or any private property except the owner of the property, persons authorized by the owner of the property, or a law enforcement officer removing improper advertising. Political advertising placed on or affixed to any public property may be 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 for one week at a place designated by the state, city, or town so that the candidate may retrieve the items.

RSA 664:17 (emphasis added).

Investigator Myrdek contacted the New Hampshire Department of Transportation ("DOT") about Ovide for Governor signs. Investigator Myrdek was informed that DOT personnel would be instructed to remove any political signs that have been improperly placed on New Hampshire highways.

Thank you for bringing this matter to our attention. Our inquiry into your complaint is now closed. Should you have any additional questions, please do not hesitate to contact me.

Sincerely,



Matthew G. Mavrogeorge
Assistant Attorney General
Civil Bureau

830285

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY
ATTORNEY GENERAL



ANN M. RICE
DEPUTY ATTORNEY GENERAL

November 15, 2012

Marlene Schmidt
[REDACTED]

Wolfeboro Falls, NH 03896

Re: Party Affiliation Complaint

Dear Ms. Schmidt:

During the State Primary on September 11, 2012, this office received a call from you, alleging that you were told at the Wolfeboro polling place that you could not vote in the Democratic Primary because you were registered as a Republican since the 2012 Presidential Primary. You claim that you did not vote in the Republican Presidential Primary. As a result of this complaint, this office conducted an inquiry.

A review of your voting history indicates that you were registered as an undeclared voter at the time of the Presidential Primary on January 10, 2012. While your voting history also indicates that you elected to vote in the Republican Primary that day, there is no record of you electing to return back to "Undeclared" status after voting.

Without regard to how you became registered as a Republican in the town's records, should you wish to change your party affiliation before the 2014 State Primary Election, such a change would need to be made at the Wolfeboro Town Clerk's Office prior to Wednesday June 4, 2014. *See* RSA 654:34, IV.

Our inquiry into your complaint is now closed. Please do not hesitate to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew G. Mavrogeorge".

Matthew G. Mavrogeorge
Assistant Attorney General
Civil Bureau

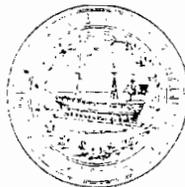
cc: Town of Wolfeboro, Supervisors of the Checklist
833115

ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY
ATTORNEY GENERAL

ANN M. RICE
DEPUTY ATTORNEY GENERAL



January 28, 2013

Rep. Warren Groen
[REDACTED]

Re: Election Law Complaint (Domicile of Rep. Anne Grassie)

Dear Rep. Groen:

On October 29, 2012, the Attorney General's Office received your complaint regarding the domicile of Rep. Anne Grassie in Rochester Ward 4 (Strafford District 11). Your complaint makes the following allegations:

1. In 2012, Rep. Anne Grassie registered to vote in the City of Rochester ward where she was not domiciled and falsely stated her domicile address when she did register, in violation of RSA 659:34.
2. On June 7, 2012, Rep. Anne Grassie falsely declared under RSA 655:17 that she was domiciled in Rochester Ward 4 (Strafford County District 11) when in fact on that date she was a domiciliary of Rochester Ward 6 and could only declare her candidacy in Rochester Ward 6.
3. On September 11, 2012, in violation of RSA 659:34, Rep. Anne Grassie voted in Ward 4, Rochester claiming herself then to be a domiciliary of Rochester Ward 4 even though she was in fact and under RSA 659:34 domiciled in Rochester Ward 6.

As a result of your claim, the Attorney General's Office conducted an investigation, in which the following facts were revealed:

- Rep. Grassie, along with her husband Charles Grassie, owns a mobile home located at [REDACTED] New Hampshire.
- The property on [REDACTED] Street was conveyed to Rep. Grassie and her husband by her mother-in-law in 1994.
- On May 31, 2012, Rep. Grassie registered to vote in Rochester Ward 4 using the [REDACTED] Street address.

- On June 7, 2012, Rep. Grassie filed a "Declaration of Candidacy" for State Representative declaring her domicile in Ward 4, using the [REDACTED] Street address.
- During an interview with Investigator Mark Myrdek from the Attorney General's Office, Rep. Grassie indicated that, at the time she registered to vote and when she declared her candidacy, she was staying at her other residence located at [REDACTED], NH but intended to move to the [REDACTED] Street address once renovations to the mobile home were complete.
- Renovations continued throughout the summer and into the fall, during which time the family would hold cookouts at the [REDACTED] Street residence.
- Rep. Grassie moved into the [REDACTED] Street residence the first week of November 2012.
- Rep. Grassie voted in Ward 4 during the State Primary on September 11, 2012 and General Election on November 6, 2012.

The question of whether Rep. Grassie violated New Hampshire law as alleged above pivots on when her domicile was established in Ward 4 ([REDACTED] Street), thereby terminating her domicile in Ward 6 (9 Central Ave). RSA 654:1, I, states, in pertinent part, that "[a]n inhabitant's 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. A person has the right to change domicile at any time, however a mere intention to change domicile in the future does not, of itself, terminate an established domicile before the person actually moves."

"Whether or not a new domicile has been acquired is primarily a question of fact under all the circumstances of the particular case. *Mcgee v. Bragg*, 94 N.H. 349, 351(1947). The determination of a domicile of choice involves the determination of questions of fact and particularly the fact of intention, always a difficult fact to determine." *Id.* An assertion by a party that he regards a certain town as his home is entitled to great weight on the issue of his intention but it must be weighed against his actions." *Id.* at 352.

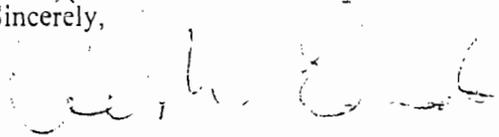
In the current case, Rep. Grassie owned the residence in Ward 4 since 1994, which establishes her physical presence in the ward. Although Rep. Grassie was staying at her residence in Ward 6 at the time she registered to vote and declared her candidacy, she and her husband had undertaken the task of renovating the Ward 4 residence with the intent of moving in once the renovations were complete. When Rep. Grassie registered to vote and declared her candidacy in Ward 4, she made the assertion that her domicile was at [REDACTED] Street. Weighing this assertion against her actions of renovating the residence on [REDACTED] Street clearly manifested her intent to maintain a single continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government within Ward 4. It is therefore our belief that Rep. Grassie established her domicile in Ward 4 in a timely manner and did not violate New Hampshire law as alleged above.

Essentially the same issue regarding Rep. Grassie's domicile was heard by the Ballot Law Commission on September 20, 2012. In an order dated September 21, 2012, the Commission determined that based on Rep. Grassie's "intent as to her domicile, when considered with the

facts presented, [was] determinative and [established] her residence" for the 2012 State Primary and General Election was in fact Ward 4.

Our investigation on this matter is now closed without further action. Thank you for your cooperation. Should you have any questions please do not hesitate to contact Assistant Attorney General Stephen LaBonte at 603-271-3650.

Sincerely,


Anne M. Edwards
Associate Attorney General
Civil Bureau

Cc: Rep. Anne C. Grassie



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