

Office of the Secretary of the State

165 Capitol Avenue

Hartford, CT 06106

**MEMORANDUM OF OPINION**

To: All Town Clerks and Registrars of Voters

From: Office of the Secretary of the State

Date: September 24th, 2020

Re: Absentee Ballot Procedures for November 3rd, 2020 General Election

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

We are writing this opinion to ensure that all eligible voters are able to participate in the upcoming November 3rd, 2020 general election. More specifically, we are clarifying the procedure for handling voters who present at polling locations on November 3, 2020 with absentee ballots and wish to either vote in person or cast their absentee ballot.

This opinion is limited to absentee ballots issued for the November 3rd, 2020 general election and is issued pursuant to Connecticut General Statutes §9-3 which states, “(a)The Secretary of the State, by virtue of the office, shall be the Commissioner of Elections of the state, with such powers and duties relating to the conduct of elections as are prescribed by law and, unless otherwise provided by state statute, the secretary’s regulations, declaratory rulings, instructions and opinions, if in written form, and any order issued under subsection (b) of this section, shall be presumed as correctly interpreting and effectuating the administration of elections and primaries under this title, except for chapters 155 to 158, inclusive, and shall be executed, carried out or implemented, as the case may be, provided nothing in this section shall be construed to alter the right of appeal provided under the provisions of chapter 54. Any such written instruction or opinion shall be labeled as an instruction or opinion issued pursuant to this section, as applicable, and any such instruction or opinion shall cite any authority that is discussed in such instruction or opinion….”

In the State of Connecticut, absentee ballot return procedure is governed by Connecticut General Statutes C.G.S. §9-137 and §9-140b which restrict the return of absentee ballots to municipal clerks. Public Act 20-3 of July 2020 repealed and substituted §9-140b subsection (c) to allow the return of absentee ballots to secure drop boxes monitored by the municipal clerks as follows:

(c) (1) For purposes of this section, "mailed" means (A) sent by the United States Postal Service or any commercial carrier, courier or messenger service recognized and approved by the Secretary of the State, or (B) for the state election in 2020, deposited in a secure drop box designated by the municipal clerk for such purpose, in accordance with instructions prescribed by the Secretary. (2) In the case of absentee ballots mailed under subparagraph (B) of subdivision (1) of this subsection, beginning on the twenty-ninth day before the state election in 2020 and on each weekday thereafter until the close of the polls, the municipal clerk shall (A) retrieve from the secure drop box described in said subparagraph each such ballot deposited in such drop box, and (B) if the drop box is located outside a building other than the building where the clerk's office is located, arrange for the clerk or the clerk's designee to be escorted by a police officer during such retrieval.

P.A. 20-3 also repealed and substituted C.G.S. §9-159o and states in relevant part:

(b) Notwithstanding the provisions of subsection (a) of this section, for the state election in 2020, any elector who has returned an absentee ballot to the municipal clerk and who finds such elector is able to vote in person shall proceed before five o'clock p.m. on the last day before the election to the municipal clerk's office and request that such elector's ballot be withdrawn.

If the voter appears at a polling location on November 3, 2020 with his absentee ballot in hand and is seeking to cast that absentee ballot, the voter should be instructed to return the ballot to one of the official ballot drop boxes in the municipality or to their municipal clerk. Poll workers, registrars of voters, deputy registrars of voters, and assistant registrars of voters at polling locations should not handle or accept absentee ballots from voters on November 3, 2020. All absentee ballots should be returned to municipal clerks or to the ballot drop box on November 3, 2020 consistent with P.A. 20-3 as cited above. This is also consistent with C.G.S. §9-137(a) which states “Each absentee ballot shall be returned to the municipal clerk…”

If the voter has requested but not cast his absentee ballot and seeks to vote in person at the polling location, they may do so and should be instructed to destroy their absentee ballot at home.

If the voter has cast his absentee ballot and appears at a polling location on November 3, 2020, they are unable to vote in person as pursuant to P.A. 20-3, they had until 5:00 P.M. on November 2, 2020 to withdraw their absentee ballot from the municipal clerk. They should be instructed that they have already voted and may not vote again.