

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: May 5, 2020

Re: Polling Place Staffing Requirements During a State of Health Emergency

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We are writing this opinion to clarify the minimum staffing requirements for the upcoming August 11, 2020 Republican and Democratic Primaries. More specifically, we are clarifying that the minimum staffing requirements in existence for the Presidential Preference Primary will remain in effect for the combined August 11, 2020 combined State, Federal and Presidential Preference Primaries at a time when the Governor has declared a public health and civil preparedness emergency throughout the State of Connecticut.

This opinion is limited to absentee ballots issued for the August 11, 2020 Republican and Democratic Primaries 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, the number of poll workers required for a Presidential Preference Primary is detailed in Connecticut General Statutes §9-476 as follows:

The primary officials of each party for each polling place shall be as specified in section 9-436, except that (1) the appointment of assistant registrars of voters and absentee ballot counters shall be permitted but not required, (2) the minimum number of official checkers shall be one, (3) the minimum number of voting tabulator tenders shall be one for each two voting tabulators in use, (4) if two parties are holding primaries and the registrars of voters of such parties so agree, such registrars of voters may jointly appoint (A) one moderator of both primaries and (B) one enrolled member of either party to serve as head moderator of both primaries, (5) notwithstanding any reduction in the number of primary officials as permitted by this section, any duty required of primary officials by the general statutes may be performed by one or more primary officials, at the direction of the registrar of voters of the party of such officials, and (6) the registrar of voters shall have the sole power to appoint such officials.

For a primary that is not a Presidential Preference Primary, Connecticut General Statutes §9-436 provides for an alternate number of poll workers as follows:

(c) The registrar shall appoint from among the enrolled party members in the state, to serve in each polling place, the primary polling place officials, who shall consist of one moderator, at least one, but not more than two official checkers, not more than two challengers if the registrar deems it necessary, and at least one and not more than two ballot clerks and at least one but not more than two voting tabulator tenders for each tabulator in use at such primary and, in towns with two or more voting districts at least one and not more than two assistant registrars…

We are aware that the Governor has issued Executive Order No. 7BB which moved the date of the Presidential Preference Primary from June 2, 2020 to August 11, 2020.

**Further Postponement of Presidential Preference Primary to August 11.** To protect the health and safety of voters, poll workers, and the most vulnerable members of our population, I hereby further modify Section 9-464 of the Connecticut General Statutes to provide that on August 11, 2020, each party shall conduct a primary in each town if the names of two or more candidates for President of the United States remain on such party's ballot in accordance with the provisions of chapter 154 of the General Statutes.

It is a well settled principle of statutory construction that a specific statutory provision should override a more general provision. Given the action by the Governor pursuant to Executive Order No. 7BB, municipalities will hold both a Presidential Preference Primary and, in some municipalities, a state or federal primary on the same day. By providing that both primaries be held on the same day, Executive Order No. 7BB has created a conflict between the two statutes discussed above. Following the well settled principles of statutory construction, it is the opinion of this office that the number of poll workers to be used at any primary to be held on August 11, 2020 shall be controlled by Connecticut General Statutes §9-476.

This opinion is also consistent with Centers for Disease Control and Prevention and Connecticut Department of Public Heath guidelines regarding the prevention of the spread of COVID-19 within our communities which indicate that we should limit the number of people who appear and work at each polling location and to practice other social distancing practices. https://www.cdc.gov/coronavirus/2019-nCoV/summary.html

Given the risk to public health, the advice of medical experts, the Governor’s Executive Order No. 7BB, and our ability to interpret and apply Title 9 of the General Statutes to the administration of elections and primaries in the State of Connecticut, it is our opinion that Connecticut General Statutes §9-476 control the number of poll workers to be used for the August 11, 2020 primary.