STATE BOARD OF ELECTION COMMISSIONERS

OFFICIAL COMPLAINT FORM

I would like to bring seven areas of concern for me that the Commission should review to determine whether any of these acts constitute a violation of election law:

1. ELECTIONEERING.

On at least one occasion, on June 12, 2020, Evelyn Gomez engaged in electioneering and promoted the campaign of a candidate for the House of Representatives, Carlton Wing, on her Facebook page in violation of Ark. Code §7-4-109. See exhibit A (P. 1, Gomez electioneering. P. 2, examples that the Facebook page is a campaign page.)

2. SEEKING PARTISAN LEGAL ADVICE WHILE IGNORING ITS COUNSEL'S ADVICE.

The Commission sought partisan legal advice yet while ignoring or refusing the advice of its legal counsel. On a number of occasions, the Commission (rudely) refused to allow its attorney to provide guidance or advice. However, it repeatedly sought legal advice and guidance from partisan sources. For example, at its Nov 16th Commission meeting, it sought the advice of Doyle Webb, Chair of the Republican Party of Arkansas, as a “legal expert.” Further, it repeatedly sought the legal advice of Rep. Doug House, a Republican member of the House of Representatives who appeared to be representing one of the candidates in the election. Such actions give the appearance of impropriety and partisanship.

3. ENGAGING IN FACT FINDING.

The Commission engaged in fact finding although the law does not grant it the power to be a fact-finding body. Despite being warned repeatedly by counsel for the Commission, the Commission on several occasions engaged in fact finding. For example, when airing a personnel issue inappropriately during a Commission meeting, the Commission solicited testimony from witnesses and then reached a conclusion and took action without granting the staff or the accused poll worker the opportunity to respond. Counsel for the Commission repeatedly advised that this issue be referred to the Board of Election Commissioners for investigation. Instead, the Commission hampered an already stretched thin staff by disqualifying the Deputy Director and a key poll worker.

4. The Commission failed to follow its set procedures. Some actions give the appearance of impropriety and partisanship.

a. As an example, during the ballot draw, the plan was for Chair Evelyn Gomez and Deputy Election Director Shawn Camp to take turns drawing for candidate positions. This process needs absolute transparency to ensure trust in the selection process. Instead, Chair Gomez drew all the names. Because the majority (if not all) draws resulted in Republican candidates being first on the ballot, it gives the appearance of impropriety and partisanship.

b. Further, the Commission did not properly document its decisions regarding absentee ballots. The Commission created a “green sheet” to allow for documentation of the processing of each individual absentee ballot. The sheet documented who reviewed the ballot, why it was marked provisional and was signed by the canvasser. The lower portion of the green sheet was designated for Commission review. Instead of properly documenting its decisions, the Commission either made no notation of its decisions or placed a post-it note on the absentee ballot package. This failure makes it impossible for the public to determine in a future review which decisions were reversed by the Commission.

5. ENGAGING HANDPICKED PARTISAN STAFF OVER TRAINED WORKERS.

Certain individuals were called to work by the Commission in highly unusual and suspicious circumstances. On at least two occasions, the Commission called in specific poll workers to perform certain tasks. Rather than responding to a need identified by staff or identifying a need and asking staff to find help, the Commission itself called specific individuals to work.

a. For example, on election night at approximately 10 pm, during a commission meeting, the Chair pulled out her personal cell phone, put it on speaker, and called a poll worker who was staffing Immanuel Baptist polling site. Ms. Gomez asked them to report to the Commission offices to remake ballots. These poll workers were not trained on the process of remaking ballots and there was staff available who had been trained. When they arrived and the ballot remake process started, it was not performed in the normal manner and it became apparent that the poll workers were not trained to remake ballots. This gives the appearance of an improper intent in the remake process.

b. As another example of improperly directing personnel, on Nov 13, the Chair announced that she had requested an Election Commissioner from Saline County to come provide “assistance to the staff.” Staff indicated that they did not need any such assistance from an individual who was unfamiliar with Pulaski County procedures. Counsel for the Commission cautioned that poll workers only have authority in the counties in which they are authorized. Nevertheless, the Commission designated an Election Commissioner from Saline County as a “consultant”, citing his vast experience in presidential elections (he was appointed in Saline County in 2018). He was given no specific assignment, although Chair Gomez did request his opinions on whether specific ballots should be counted. The only work he appeared to perform was to produce a memo praising the Commission and denigrating staff. After that memo, he did not return. His presence appeared to be a partisan play to bolster the Commission’s complaints about the staff and did not appear to provide any assistance to the election process.

6. DELAY, DELAY AND PROTRACTED PROCESS.

The Commission either intentionally or unintentionally delayed the start of its work until after the polls closed on Election Day. It did this, despite knowing that it intended to recanvass all provisional absentee ballots after these ballots had gone through two levels of canvassing before they came to the Commission. This delay adversely affected the election process in the following ways:

a. Because “canvassing” was continuing, the public, poll watchers and candidates were not allowed access to information such as how many ballots were approved to count, how many were being held as provisional, etc. during the canvassing process.

b. The Commission did not follow the proper procedures when it canvassed ballots. When it began its review, it was obvious that only one Commissioner was familiar with the canvassing process and that the Commission was learning the rules as it worked. For example, the Commission claimed that it could not open a ballot envelope to look for documents improperly included. The law states that you must open that envelope. The Commission did not call out the names of the ballots being reviewed so that poll watchers could monitor the review process and it refused to allow poll watchers to approach to observe. It did not announce its decision to allow poll watchers to ascertain whether improprieties were occurring. The rules require two people to review an absentee ballot so that no one person could manipulate the process. On at least one occasion, a specific ballot was pulled because a commissioner recognized the name of the voter. Further, when in-person provisional ballots were reviewed by the Clerk, the Commission decided to review those voters.

c. The entire process was haphazard, disorganized and left onlookers with no way to follow the Commission proceedings.

d. The extremely lengthy meetings hampered the staff’s ability to perform its duties. Some of the meetings lasted all night long. All of the canvassing work could have been conducted outside a Commission meeting and would not have required staff’s attendance. The Commission required the staff to be in attendance in the meeting room the majority of the time. This overly burdensome requirement of time interfered with the orderly processing of the election results.

7. RUDENESS.

The Chair was extremely condescending and rude to staff, legal counsel, the public in attendance, and voters who came to the meetings. In addition to intimidating or [[1]](#footnote-1)suppressing participation in a public meeting where the Chair regularly cited its desire for transparency, such behavior leads to a mistrust of government and the appearance of impropriety.

1. [↑](#footnote-ref-1)