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**James C. Condos, Secretary of State**  
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Bennington Select Board  
205 South Street  
Bennington, VT 05201

Dear members of the Bennington Select Board,

Fair and free elections are the very bedrock of our democracy. As Vermont's Chief Election Official, ensuring the integrity of our elections and accuracy of Vermont election results is my top priority. In Vermont we have careful and deliberate procedures, policies, and laws, that dictate how our elections are conducted. I am proud to say that Vermont was ranked #1 in the country for election administration after the 2016 election by the Election Performance Index (EPI), conducted by MIT's Election Data & Science Lab. This is the most recent ranking, as the 2018 EPI is not yet available. The EPI is widely considered the most reputable data driven measure of a state's election administration performance.

Of course, much of the credit goes to our hard-working Town Clerks, and local election officials, who serve as the front door to our democracy for eligible Vermont voters. The conduct of elections in Vermont relies on a strong partnership between my office and the Town Clerks, who are responsible for the administration of those elections in their town.

In light of a substantial number of questions and concerns we have received recently regarding the voter checklist and participation reports for various elections in Bennington, we wanted to take this opportunity to provide the select board with the following information regarding these items from our perspective.

First, I want to be clear that the Secretary of State's office has no investigative or enforcement authority with regard to election law. Our role is administrative, and to provide guidance and training on election law and processes to town and city clerks, BCA members, candidates, voters, and the general public. Within that role, we consider support and guidance for the 246 town and city clerks who run the elections in Vermont to be our primary and most important function.

With that said, I want to start by saying that, in the course of my nearly ten years serving as Secretary of State, it has been my experience that Cassandra Barbeau, the Bennington Town Clerk, performs her elections-related duties professionally, with integrity, and in compliance with the laws. While mistakes will inevitably happen, I have no question that Ms. Barbeau does her best each day to conduct elections in Bennington in a fair, non-partisan, and objective manner.

Regarding some of the issues and allegations that have been raised, I want to take a moment to answer and clarify what may be some misconceptions about the election law and process.

1. The hard copy of the entrance checklist that is used at the polls on Election Day by the poll workers to check voters into the polling place is the official, primary record of the voters who cast a ballot in that election. That checklist will have the names marked of all voters who came to the polling place on election day, as well as those voters who voted early. Errors do occur on these checklists – a poll worker may forget to check a name or check the wrong name during a particularly busy time – but again, these are the primary, official record of which voters cast a ballot. See 17 VSA [2548](#) and [2563](#).
2. The “participation report” is a report filed by the town clerk with our office following the election. It is nothing more than a report of which voters were checked off the checklist for that election, whether they voted early or on election day. It is required by statute to be filed with our office by each town clerk no later than 60 days following the election. See [17 VSA 2593](#).

It is for statistical purposes only, to track turnout numbers for the various elections over time. Any discrepancies between this report and the official entrance checklist are most often simply the result of data entry errors and any such discrepancy does not in any way reflect that the ballots of any given voter were or were not counted.

3. College students are allowed to register to vote in the town in which they reside while attending college, as long as they are otherwise eligible to vote. This is a long-established principle in both federal and state case law, and has been upheld by the Supreme Court. On the flip side of that coin, students who are away from Vermont at college may vote where they are residing or may vote absentee in Vermont.

Of course, they may only be registered AND cast a ballot in one jurisdiction for any given election, so they cannot simultaneously be registered AND vote where they are attending college and in their previous home state – they have to choose one or the other. All across Vermont, in the numerous towns and cities that house our colleges and universities, students attending those institutions are registered and voting, as is their right under the applicable statutory and common law.

4. American citizens living abroad, as well as active duty members of the armed services, are entitled to remain registered and vote via absentee ballot in the last place in which



they resided in the United States before moving overseas or enlisting. See [52 U.S.C. Chap. 203](#) (federal law) and [17 VSA 2122\(a\)](#).

There is no time limit on this protection – an American citizen living abroad may register or remain registered in the last place they resided in the United States and vote by absentee ballot for as long as they remain outside the country.


5. As you know, the Bennington Board of Civil Authority (BCA) has primary responsibility for maintenance of the Bennington voter checklist. My office has no authority to add or remove names from the voter checklist of any Vermont town or city. The BCA has the sole authority to do so, except in certain cases where the clerk may remove a name him or herself (upon receipt of a death notice, notice from another clerk that the person has registered in their town, or upon written authorization from the voter). See [17 VSA 2150\(a\)](#).
6. Before a voter can be removed from the checklist due to a change of residency (moving out of town) there is a process mandated by federal law involving notice to the voter that the BCA must follow. The BCA may not remove a name solely because they believe the person has moved out of town. See [17 VSA 2150 \(b\)-\(d\)](#) and the [National Voter Registration Act \(1993\)](#).

To the best of my knowledge, all specific allegations or questions regarding particular individuals on the Bennington checklist have been answered or explained by either our office and/or the Bennington clerk's office.

Ms. Barbeau has made all reports and checklists that have been requested available to those requesting them. If any legitimate allegations of voter fraud are in fact raised, I know that both my office and the Bennington clerk's office would take them seriously and refer them to the Attorney General's office for investigation. To the best of my knowledge no such legitimate, unexplainable claims have been made.

I hope this helps to clarify some of the misconceptions and questions that have been raised recently in Bennington. Nothing is more important to our democracy than the right to vote. We take this responsibility and any credible allegations of voter fraud very seriously.

Please feel free to contact me or my office with any questions.

  
Jim Condos  
Vermont Secretary of State