

**STATE OF CONNECTICUT
CONNECTICUT HOUSE OF REPRESENTATIVES**

JANUARY 11, 2019

**ELECTION CHALLENGE
120TH ASSEMBLY DISTRICT**

Pursuant to House Rule 19 (adopted January 9, 2019), Jim Feehan, the Republican Party and Independent Party candidate for the office of State Representative for the 120th Assembly District, brings this election challenge to protect his right to a fair election and the right of the voters of the 120th Assembly District to choose their state representative. At the November 6, 2018 election, voters of the 120th Assembly District were disenfranchised, denied the right to vote for their state representative, and denied the right to have their votes counted equally. The following facts establish the need for a new election:

1. On November 6, 2018 electors of the 120th Assembly District were to choose from among three candidates to represent them as State Representative: Jim Feehan for the Republican Party and Independent Party, Philip Young for the Democratic Party, and petitioning candidate Prez Palmer. See Exhibit 7 (Ballots for 120th).
2. One of the eight polling places for the 120th Assembly District was Bunnell High School in Stratford, Connecticut. See Exhibit 9 (Notice of Election).
3. Bunnell High School also served as the polling place for the 122nd Assembly District. See Exhibit 9 (Notice of Election).

4. Around midday on November 6, 2018, a packet of ballots for the 122nd Assembly District was used in the 120th Assembly District voting line at Bunnell High School. See Exhibit 5 (Moderator Log Entry).

5. The 122nd Assembly District ballots did not offer a way to vote for State Representative for the 120th Assembly District because the 122nd Assembly ballots listed the names of Ben McGorty and Jose Goncalves, not of Feehan, Young, and Palmer. See Exhibit 8 (Ballot for 122nd).

6. As a result, voters who were eligible to vote for State Representative for the 120th Assembly District were unable to do so, instead casting votes in the wrong district. See Exhibit 1 (Tabulator Tape for 120th and 122nd); See also Bunnell Voter Checklists for 120th and 122nd.

7. The checklist for the Bunnell High School poll in the 120th Assembly District shows 1,575 voter names crossed off the official checklist, but only 1,499 ballots processed, for a difference of 76 fewer ballots than voters. See Exhibit 6 (Summary: Voters v. Ballots Processed); Exhibit 1 (Tabulator Tape).

8. The checklist for the Bunnell High School poll in the 122nd Assembly District shows 954 names crossed off the official checklist, but 1,031 ballots processed, for a difference of 77 more ballots than voters. See Exhibit 6 (Summary Voters v. Ballots Processed); Exhibit 1 (Tabulator Tape).

9. Thus, approximately 76 voters in the 120th Assembly District were deprived of their right to vote for their state representative because they were improperly given the ballot for the 122nd Assembly District.

10. In the initial vote tabulation for the 120th, Young received 5,217 votes, Feehan received 5,199 votes, and Palmer received 55 votes. See Exhibit 1 (Tabulator Tape).

11. Due to the difference of only 18 votes between Young and Feehan, a statutory recanvass was triggered. See General Statutes § 9-311a.

12. The recanvass was held on November 13th and 14th. The recanvass resulted in Young receiving 5,222 votes, Feehan receiving 5,209 votes, and Palmer receiving 55 votes. See Exhibit 3 (Tabulator Tape Recanvass).

13. Following the recanvass, there is now a difference of only 13 votes between Feehan and Young. See Exhibit 3 (Tabulator Tape Recanvass).

14. The recanvass showed that, at Bunnell High School, a total of 859 votes were cast for Feehan, 608 votes for Young, 6 votes for Palmer, and 27 ballots presented no votes in the race for the 120th Assembly District. See Exhibit 3 (Tabulator Tape Recanvass).

15. The voter checklist showed that 1,575 voters in the 120th Assembly District received ballots. See Exhibit 6 (Summary: Voters v. Ballots Processed); see also Bunnell Voter Checklists for 120th.

16. Thus, after the recanvass, the candidates were separated by 13 votes, with a shortfall of 75 votes at Bunnell High School for the 120th Assembly District.

17. The recanvass did not address the ballot discrepancy between the 120th and 122nd Assembly Districts, which calls into question the integrity of the election for the position of State Representative in the 120th Assembly District.

18. There is now a difference of only 13 votes between Feehan and Young, significantly less than the number of ballots for the 120th Assembly District that were not provided to voters in the 120th District.

19. Electors and candidates in the State of Connecticut have a fundamental right under the Constitution of the State of Connecticut and the United States Constitution to a just and fair election.

20. It is impossible to determine the identity or intent of the approximately 76 voters whose votes were improperly cast for the wrong district.

21. Feehan wishes to assure that all properly registered voters of the 120th Assembly District who were denied the right to vote in the 120th Assembly District election have the opportunity to vote and to have their vote counted.

22. Absent a new election in the 120th Assembly District, the choice of electors of the 120th Assembly District for the position of State Representative cannot be known.

23. Where a sufficient number of voters are given the wrong ballots so as to call into question the reliability of the election, Connecticut law requires that a new election be held. See Exhibit 10 (Rutkowski v. Marrocco, 2013 WL 6916610 (Conn. Super. Ct. 2013) (*Sheridan, J.*) (applying standard set by Supreme Court in Bortner v. Town of Woodbridge, 250 Conn. 241, 259-260 (1999) and ordering a new election where 17 voters received the wrong ballots in an election decided by 3 votes).

WHEREFORE, Feehan asks the House of Representatives to declare that, as a result of the disenfranchisement of voters in the 120th Assembly District who were given the wrong ballots, a new election must be held for the office of State Representative for the 120th Assembly District.

Respectfully submitted,

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By 

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