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July 30, 2025

Town of Danville  
Attn: Town Clerk Healy  
Attn: Town Moderator Underhill  
210 Main Street  
Danville, NH 03819

Re: Town of Danville, Alleged Election Official Misconduct

Dear Clerk Healy & Moderator Underhill:

On April 5, 2025, this Office received a complaint regarding how Town of Danville election officials conducted the March 11, 2025 Town Election and Timberlane Regional School District Election. Following an investigation, this Office determined that election officials: (1) did not accurately label ballot box seals following the elections; (2) did not use 50 test ballots to conduct pre-election testing of ballot counting devices; (3) inadvertently failed to preserve the zero tape for one ballot counting device; and (4) did not accurately complete the ballot counting device activity logs. Election officials must exercise greater care in future elections to ensure these issues do not reoccur.

I. **Background:**

On March 11, 2025, Danville held the Danville Town Election and the Timberlane Regional School District Election. A recount of the Timberlane Regional School District Election was subsequently held on March 23, 2025.

On April 5, 2025, this Office received a complaint alleging various issues with how Danville election officials conducted these elections, including issues regarding: (1) post-election storage of ballots; (2) pre-election testing of ballot counting devices; (3) retention of ballot counting device zero tapes; and (4) completion of ballot counting device activity logs.

This Office conducted an investigation, which included speaking with the complainant, the former town clerk, the town moderator, and an employee of LHS Associates—the company that services the town's ballot counting devices.

II. Analysis:

Post-election storage of ballots: The first issue involved the post-election ballot box seals. The complainant provided a photo of a ballot box with a seal that was marked "7 of 7," which contradicted a storage log that identified 9 boxes of ballots. Additionally, ballot box seals did not identify the number of cast, cancelled, and uncast ballots sealed in each box. See RSA 659:95 (requiring election officials to seal cast, cancelled, and uncast ballots after each state election and prescribing the information that must be recorded on ballot box seals); RSA 669:25 (providing that official ballot system town elections must be conducted in the same manner as state elections under RSA chapter 659).

This Office's investigator spoke with the former town clerk, who explained that she had erroneously written "7 of 7" despite there having been 9 ballot boxes. The clerk explained that the town received 8 boxes of ballots prior to the elections, and election officials sealed all cast and uncast ballots into 9 boxes at the close of the elections.

This Office's investigator additionally spoke with the town moderator and reminded him that, post-election, election officials must identify the number of cast, cancelled, and uncast ballots on the seal on each box of ballots. The moderator acknowledged this requirement and agreed to remind local election officials of this requirement at the next election.

Pre-election testing of ballot counting devices: The second issue involved pre-election testing of the town's ballot counting devices. Specifically, election officials appeared to have conducted these tests with only 8 ballots rather than with 50 ballots

Election officials must use 50 test ballots to test each ballot counting device before that device is used in an election. See RSA 656:42, VIII(e). This Office's investigator spoke with the town moderator, who stated election officials would ensure they use 50 ballots to conduct tests before future town elections.

Ballot counting device zero tapes: The third issue involved the ballot counting device zero tapes. The town only had a zero tape for one of the two ballot counting devices used in the election. Additionally, that zero tape had the date "3/11/25" printed at the top, but also had the date "10/30/24" printed below. Finally, the tapes for both devices identified the respective device as Machine ID #1.

This Office's investigator spoke with the moderator, who explained that officials ran three copies of the zero tape for the primary ballot counting device before the election. Because the primary ballot counting device did not work at the start of the election, officials set up the second ballot counting device. The moderator was certain that officials ran zero tapes for the second machine before placing it into service. However, election officials inadvertently failed to retain and preserve a copy of the zero tape for the second machine. Going forward, election officials must exercise greater care to ensure a copy of the zero tape is preserved.

Regarding the mismatched dates on the zero tape that the town kept, an employee of LHS Associates explained that the correct “3/11/25” date at the top of the zero tape is the date of the election and is set by LHS. The incorrect “10/30/24” date is set by an internal device clock chip, which the moderator needs to periodically reset.

Regarding the tapes for two machines each identifying the respective machine as “Machine ID 1,” the employee of LHS explained that each machine was labelled “1” because the town had one machine designated as a backup machine in case the primary machine stopped working. If the town had intended to use both machines simultaneously, each machine would have had a different machine ID designation.

Ballot counting device activity logs: The fourth issue involved ballot counting device activity logs.

The log for device 44974 had an entry for wire seal 744139 being installed on March 11, 2025, but no entry for it being removed. The moderator explained that seal 744139 was added to the memory card slot when this machine was placed in service after device 81705 was taken out of service at the start of the election. This Office’s investigator reminded the moderator that the wire seals for memory cards must be recorded on a different activity log.

The log for device 81705 had an entry for wire seal 744108 being installed on March 6, 2025, but no entry for it being removed. The next entry in the log was for the removal of seal 744139 on March 11, 2025. That number was crossed off—likely because an official recognized that seal number was actually from the wire seal on device 44974. However, election officials failed to record the correct number 744108 after they realized they had erroneously written 744139.

In sum, town election officials must exercise greater care to ensure they are recording the correct wire seal numbers on the proper activity log (device log, memory card log, canvas bag log).

### **III. Conclusion**

Going forward, town election officials must ensure they: (1) properly seal ballot boxes and record the number of cast, cancelled, and uncast ballots on ballot box seals; (2) test ballot counting devices with the proper number of test ballots; (3) retain and preserve a copy of the zero tape for each ballot counting device used in an election; (4) accurately record the installation and removal of wire seals on the activity logs for ballot counting devices, memory cards, and canvas bags.

This matter is closed.

Sincerely,

/s/ Brendan A. O'Donnell

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