

Ms Nyah Haque: Professional conduct panel meeting outcome

Panel decision and reasons on behalf of the Secretary of State for Education

February 2020

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Professional conduct panel decision and recommendations, and decision on behalf of the Secretary of State

Teacher: Ms Nyah Haque

Teacher ref number: 0443300

Teacher date of birth: 1 January 1977

TRA reference: 18082

Date of determination: 7 February 2020

Former employer: Coundon Court School, (the "School") Coventry

Introduction

A professional conduct panel ("the panel") of the Teaching Regulation Agency ("the TRA") convened on 7 February 2020 at Cheylesmore House, 5 Quinton Road, Coventry, CV1 2WT, to consider the case of Ms Nyah Haque.

The panel members were Mr Phillip Riggon (teacher panellist – in the chair), Mrs Karen McArthur (lay panellist) and Mr Tony Woodward (former teacher panellist).

The legal adviser to the panel was Mr Prem Thakor of Eversheds Sutherland (International) LLP solicitors.

In advance of the meeting, after taking into consideration the public interest and the interests of justice, the TRA agreed to a request from Ms Haque that the allegations be considered without a hearing. Ms Haque provided a signed statement of agreed facts admitting the allegations and admitting unacceptable professional conduct and conduct that may bring the profession into disrepute. The panel considered the case at a meeting without the attendance of the presenting officer, Mr Luke Berry or Ms Haque.

The meeting took place in private, save for the announcement of the panel's decision, which was announced in public and recorded.

Allegations

The panel considered the allegations set out in the notice of meeting dated 30 January 2020.

It was alleged that Ms Haque was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that, whilst employed at the School she:

- On or around 22 May 2018, instructed one or more students to make amendments to their Level 3 Cambridge Technical IT Coursework, after marks had been submitted to the Exam Board, following an internal moderation which indicated that she had over-marked the work.
- 2. Her instructions to the students referred to at 1, above, requested the students to keep any instructions as may be found proven secret from others.
- 3. Her conduct as may be found proven at allegations 1 and 2 lacked integrity and/or were dishonest.

Ms Haque admitted allegations 1, 2 and 3 in the statement of agreed facts. Ms Haque further admitted that her conduct amounted to unacceptable professional conduct and conduct that may bring the profession into disrepute.

Preliminary applications

The panel considered at the outset whether the allegations should be considered at a public hearing at which the parties would be entitled to attend, or a private meeting without the parties present. The panel considered the interests of justice. Given that the facts of the allegations had been admitted, that Ms Haque had requested a meeting and the fact that the panel had the benefit of Ms Haque's representations, the panel was of the view that justice would be adequately served by considering the matter at a meeting.

The panel carefully considered the public interest. The panel noted that if the case proceeded in a meeting, there would be a public announcement of the panel's decision. The panel also had in mind that if a hearing was convened, there would be a cost to the public purse, which may not be justified if the matter could be determined in a meeting. The panel also had regard to the delay that would be caused by convening a hearing and considered it to be in the public interest to reach a final determination in this matter without further delay. The panel therefore decided to proceed with a meeting, but noted that it could, at any stage of the meeting, reconsider this issue.

In reaching its decision, the panel acknowledged that the notice of referral form in the bundle (signed by Ms Haque on 10 July 2019) only referred to allegations 1 and 3, but

that the statement of agreed facts (signed by Ms Haque on 11 December 2019) referred to all three allegations. The panel had sight of the notice of meeting dated 30 January 2020 (which it decided to admit for the reasons below), which confirmed that the allegations against Ms Haque were those specified in the statement of agreed facts. The panel also had sight of email correspondence between the presenting officer and Ms Haque (which it decided to admit for the reasons below) in which Ms Haque confirmed that she had received the notice of meeting (dated 30 January 2020), that she admit the allegations contained within it (as previously admitted in the statement of agreed facts) and that she was content for the panel to consider the case in her absence.

The panel was content that Ms Haque was fully aware of the allegations against her and taking into consideration the public interest and the interests of justice, deemed it appropriate for the matter to be considered at a meeting.

The notice of meeting dated 30 January 2020 and email correspondence between Ms Haque and the presenting officer were not served in accordance with the requirements of paragraph 4.20 of the Teacher Misconduct: Disciplinary Procedures for the Teaching Profession ("the Procedures"), and as such the panel was required to decide whether the documents should be admitted under paragraph 4.25 of the Procedures. The panel exercised caution in exercising this discretion as neither party was present at the hearing.

Pursuant to paragraph 4.18 of the Procedures, the panel was satisfied that the documents were relevant to the case and considered it fair to admit them. In reaching its decision, the panel noted that the documents merely confirmed that the allegations against Ms Haque were those specified in the statement of agreed facts and confirmed that Ms Haque admitted the allegations and was content for the panel to proceed in her absence.

Summary of evidence

Documents

In advance of the meeting, the panel received a bundle of documents which included:

Section 1: Chronology and anonymised pupil list – pages 2 to 4

Section 2: Notice of referral, statement of agreed facts and presenting officer submissions – pages 6 to 20

Section 3: TRA documents – pages 22 to 61

Section 4: The School's documents – pages 64 to 174

Section 5: Teacher documents – pages 176 to 183

In addition, the panel agreed to accept the notice of meeting dated 30 January 2020 and email correspondence between the presenting officer and Ms Haque.

The panel members confirmed that they had read all of the documents within the bundle, in advance of the meeting and the additional documents admitted by the panel.

Statement of agreed facts

The panel considered a statement of agreed facts which had been signed by Ms Haque on 11 December 2019.

Decision and reasons

The panel announced its decision and reasons as follows:

The panel carefully considered the case and reached a decision.

Ms Haque was employed by the School from May 2016 as a teacher for ICT/Computer Science, until her resignation on 31 May 2018. On 22 May 2018 Ms Haque emailed a group of pupils instructing them to make amendments to coursework which had already been internally moderated and sent to the Examination Board, so as to justify the grades that had been awarded. One or more of the students reported the email which resulted in an internal investigation.

Findings of fact

The findings of fact are as follows:

The panel found the following particulars of the allegations against you proved, for these reasons:

 On or around 22 May 2018, instructed one or more students to make amendments to their Level 3 Cambridge Technical IT Coursework, after marks had been submitted to the Exam Board, following an internal moderation which indicated that she had over-marked the work.

Ms Haque admitted allegation 1. In relation to allegation 1, the statement of agreed facts recorded the following:

- "3. Ms Haque, as the teacher of this course was responsible for the marking of students' coursework which made up part of the assessment of the overall qualification.
- 4. Ms Haque admits that, as a result of the internal moderation process in relation to Unit 8 of the qualification, some candidates whom she had graded distinction would not have secured a distinction grade after moderation.

- 5. Ms Haque admits that she emailed 6 pupils (Pupils D, G, H, I, J, K) on 22 May 2018 instructing them to make amendments to their work so as to justify the distinction grades which they had been marked. [SAF 1-6]
- 6. Ms Haque admits that she was trying to hide a discrepancy between the grades given and the actual work submitted."

Ms Haque's admission was supported by evidence presented to the panel, namely a copy of the emails sent to the pupils. The allegation was therefore found proven.

2. Her instructions to the students referred to at 1, above, requested the students to keep any instructions as may be found proven secret from others.

Ms Haque admitted allegation 2. In relation to allegation 2, the statement of agreed facts recorded the following:

"9. Ms Haque admits that she requested in her email dated 22 May 2018 that the pupils in question did not mention the email to anyone else as she was aware that amending work after internal moderation, in the manner in which Ms Haque did, was contrary to the regulations governing the assessment procedure."

Ms Haque's admission was supported by evidence presented to the panel, namely a copy of the emails sent to the pupils. The panel also noted that Ms Haque had admitted that she had instructed the students to keep the instructions secret from others on previous occasions, for example, during the disciplinary investigation. The allegation was therefore found proven.

3. Her conduct as may be found proven at allegations 1 and 2 lacked integrity and/or were dishonest.

Ms Haque admitted allegation 3. In relation to allegation 3, the statement of agreed facts recorded the following:

- "10.At the time, Ms Haque was concerned with the internal ramifications of the coursework results. Ms Haque admits that the sending of the emails to the students was dishonest according to the ordinary standards of reasonable and honest teachers as it sought to conceal her actions in hiding the discrepancy between the grades given and the actual work submitted from the School and other pupils.
- 11. Ms Haque also accepts that her conduct lacked integrity; acting in a manner which was below the standards society expects from professional persons and which the teaching profession expects from its own members,
- 12. Ms Hague therefore accepts that her conduct lacked integrity and was dishonest."

Ms Haque's admission was supported by evidence presented to the panel. The panel considered Ms Haque's actions to be both dishonest and lacking in integrity, as she had tried to represent something which was not true. Ms Haque attempted to defend her overmarking and requested the students not to tell anyone in order to hide her overmarking. The panel read a letter from Ms Haque in the bundle which stated that she "was well aware that students can make improvements and improve their grades after external moderation. I somehow panicked after internal moderation that marks were over generous, I was worried about the consequences affecting my annual appraisal and criticism from my line manager". The panel also noted that Ms Haque admitted that she "was trying to hide a discrepancy between the grades given and the actual work submitted".

The allegation was therefore found proven.

Findings as to unacceptable professional conduct and/or conduct that may bring the profession into disrepute

Having found a number of the allegations proved, the panel went on to consider whether the facts of those proved allegations amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

In doing so, the panel had regard to the document Teacher Misconduct: The Prohibition of Teachers, which is referred to as "the Advice".

The panel noted that Ms Haque had accepted that her conduct amounted to unacceptable professional conduct and conduct that may bring the profession into disrepute.

The panel was satisfied that the conduct of Ms Haque in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel considered that, by reference to Part 2, Ms Haque was in breach of the following standards:

- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach.
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel was satisfied that the conduct of Ms Haque fell significantly short of the standards expected of the profession.

The panel also considered whether Ms Haque's conduct displayed behaviours associated with any of the offences listed on pages 10 and 11 of the Advice.

The Advice indicates that where behaviours associated with certain offences exist, a panel is likely to conclude that an individual's conduct would amount to unacceptable professional conduct.

The panel found that the offence of serious dishonesty was relevant.

Accordingly, the panel was satisfied that Ms Haque was guilty of unacceptable professional conduct.

The panel took into account the way the teaching profession is viewed by others and considered the influence that teachers may have on pupils, parents and others in the community. The panel also took account of the uniquely influential role that teachers can hold in pupils' lives and the fact that pupils must be able to view teachers as role models in the way they behave.

The findings of misconduct were serious and the conduct displayed would be likely to have a negative impact on Ms Haque's status as a teacher, potentially damaging the public perception.

The panel therefore found that Ms Haque's actions constituted conduct that may bring the profession into disrepute.

Having found the facts of particulars 1, 2 and 3 proved, the panel further found that Ms Haque's conduct amounted to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

Panel's recommendation to the Secretary of State

Given the panel's findings in respect of unacceptable professional conduct/conduct that may bring the profession into disrepute, it was necessary for the panel to go on to consider whether it would be appropriate to recommend the imposition of a prohibition order by the Secretary of State.

In considering whether to recommend to the Secretary of State that a prohibition order should be made, the panel had to consider whether it would be an appropriate and proportionate measure, and whether it would be in the public interest to do so. Prohibition orders should not be given in order to be punitive, or to show that blame has been apportioned, although they are likely to have punitive effect.

The panel had regard to the particular public interest considerations set out in the Advice and, having done so, found a number of them to be relevant in this case, namely: the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct.

The panel's findings against Ms Haque involved unacceptable instructions to pupils to amend work which had already been internally moderated. The panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Ms Haque was not treated with the utmost seriousness when regulating the conduct of the profession. The panel decided that a strong public interest consideration in declaring proper standards of conduct in the profession was also present as the conduct found against Ms Haque was outside that which could reasonably be tolerated.

Notwithstanding the clear public interest considerations that were present, the panel considered carefully whether or not it would be proportionate to impose a prohibition order, taking into account the effect that this would have on Ms Haque.

In carrying out the balancing exercise, the panel had regard to the public interest considerations both in favour of, and against, prohibition as well as the interests of Ms Haque. The panel took further account of the Advice, which suggests that a prohibition order may be appropriate if certain behaviours of a teacher have been proved. In the list of such behaviours, those that are relevant in this case are:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- abuse of position or trust and
- dishonesty especially where there have been serious consequences, and/or it has been repeated and/or covered up.

Even though some of the behaviour found proved in this case indicated that a prohibition order would be appropriate, the panel went on to consider the mitigating factors. Mitigating factors may indicate that a prohibition order would not be appropriate or proportionate.

The panel had the opportunity to consider a mitigation statement produced by Ms Haque. Within this statement and other documents within the bundle Ms Haque stated that she had been a teacher for 12 years and had been known to be a "good teacher" who had "a good rapport with students and co-teachers".

In her written evidence Ms Haque stated that her time at the School was very stressful. She stated that she was "overworked and criticised for minor things". Ms Haque recounted past incidents with other teachers to demonstrate this, for example, she referred to one occasion where she was allegedly informed that she was not "taking [her] job seriously" for acting in a "bubbly" manner at meetings and not appearing to be stressed. She also recounted a conversation in May 2017 with a fellow teacher within the School. At the time Ms Haque had just received confirmation from an external moderator that it agreed with the grades awarded for coursework that Ms Haque had delivered and

assessed. Ms Haque explained that she was "extremely happy" as some of the students had struggled to meet the criteria, but noted that a fellow teacher had informed her that the coursework needed to be "perfect next time" with "no room for improvements". Ms Haque stated that there were many incidents like this "which led [her] to be very stressed and having [sic] a low self esteem". Ms Haque explained that she felt bullied and "felt that no matter what [she] did and how hard [she] worked it was never good enough".

In relation to her actions in May 2018, Ms Haque stated that it was "one of the biggest mistakes of [her] life" which she deeply regretted. She stated that it was an unintentional mistake which she thought was the right thing to do. Ms Haque explained that she "foolishly panicked" because she was worried her superiors would criticise her, even though a senior teacher had checked her marking against the criteria and agreed with the grading.

In relation to Ms Haque's request not to inform others about the amended coursework, Ms Haque stated that there was another pupil within the class who left their coursework "to the end and did not get the grade they wanted". She stated that she did not wish to be confronted by this pupil who might question why he was not given the opportunity to add to his coursework.

Ms Haque explained that once she realised what she had done and what it meant, she felt "totally ashamed as a teacher". She added that she felt a "lot of remorse" and noted that she did not blame anyone for her actions.

The panel carefully considered Ms Haque's statements. The panel considered Ms Haque's remorse to be genuine and accepted that the incident was out of character. It understood the stress that Ms Haque may have been under, but acknowledged that there was no evidence to suggest that Ms Haque was acting under duress when she emailed the pupils.

The panel deemed Ms Haque's actions to be wholly inappropriate. The panel found that Ms Haque had acted in a seriously dishonest manner which had fundamentally undermined the integrity of the exam system and the credibility of the School. Ms Haque's actions could have had a serious impact on pupils at the School and whilst the panel recognised that Ms Haque was remorseful, it did not believe that she had demonstrated any insight as to the potential impact on pupils. The panel found Ms Haque's actions to be deliberate and calculated and was particularly concerned that she had attempted to involve pupils in the 'cover up'. The panel acknowledged that no actual harm had been caused by Ms Haque's instructions, but attributed this solely to the actions of the pupils involved, rather than Ms Haque.

The panel was referred to a character statement from a former colleague of Ms Haque. The referee, now an [REDACTED] at the University of Warwick, "appointed [Ms Haque] to a role in [her] ICT department at a successful comprehensive school". The referee stated that she was "particularly attracted by [Ms Haque's] ability to engage students in creative tasks and her skill at motivating and working with all types of student". She stated that she "never had reason to question [Ms Haque's] honesty as a teacher" and that whenever Ms Haque needed help "she would ask for it without covering up any shortcomings on her own behalf". The referee noted that Ms Haque had previously marked and moderated a number of portfolios and that Ms Haque's gradings in the assessment were "extremely good". She added that at the time of the incident Ms Haque had not spoken to her about the stress she was feeling, but that she was aware that Ms Haque felt criticised by her managers. The referee ended her character statement by stating "I feel that [Ms Haque] is not a risk to her students, herself or the profession in the future".

The panel first considered whether it would be proportionate to conclude this case with no recommendation of prohibition, considering whether the publication of the findings made by the panel would be sufficient.

The panel was of the view that, applying the standard of the ordinary intelligent citizen, it would not be a proportionate and appropriate response to recommend no prohibition order. Recommending that the publication of adverse findings was sufficient would unacceptably compromise the public interest considerations present in this case, despite the severity of the consequences for Ms Haque of prohibition.

The panel was of the view that prohibition was both proportionate and appropriate. The panel decided that the public interest considerations outweighed the interests of Ms Haque. Ms Haque's serious dishonesty and the fact that she had asked pupils not to tell others about her instructions were a significant factor in forming that opinion. Accordingly, the panel made a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

The panel went on to consider whether or not it would be appropriate to recommend that a review period of the order should be considered. The panel was mindful that the Advice states that a prohibition order applies for life, but there may be circumstances, in any given case, that may make it appropriate to allow a teacher to apply to have the prohibition order reviewed after a specified period of time that may not be less than 2 years.

The Advice indicates that there are behaviours that, if proved, would militate against the recommendation of a review period. One of the behaviours listed is serious dishonesty. The panel found that Ms Haque had acted in a dishonest manner and in a manner which lacked integrity.

However, the panel acknowledged that Ms Haque had demonstrated genuine remorse for her actions.

The panel decided that the findings indicated a situation in which a review period would be appropriate and, as such, decided that it would be proportionate in all the circumstances for the prohibition order to be recommended with provisions for a review period after 3 years.

Decision and reasons on behalf of the Secretary of State

I have given very careful consideration to this case and to the recommendation of the panel in respect of both sanction and review period.

In considering this case, I have also given very careful attention to the Advice that the Secretary of State has published concerning the prohibition of teachers.

In this case, the panel has found all of the allegations proven and found that those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute.

The panel has made a recommendation to the Secretary of State that Ms Haque should be the subject of a prohibition order, with a review period of three years.

In particular, the panel has found that Ms Hague is in breach of the following standards:

- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach.
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel finds that the conduct of Ms Haque fell significantly short of the standards expected of the profession.

The findings of misconduct are particularly serious as they include a finding of dishonesty and the fact that she had asked pupils not to tell others about her instructions.

I have to determine whether the imposition of a prohibition order is proportionate and in the public interest. In considering that for this case, I have considered the overall aim of a prohibition order which is to protect pupils and to maintain public confidence in the profession. I have considered the extent to which a prohibition order in this case would achieve that aim taking into account the impact that it will have on the individual teacher. I have also asked myself, whether a less intrusive measure, such as the published finding of unacceptable professional conduct and conduct that may bring the profession into disrepute, would itself be sufficient to achieve the overall aim. I have to consider

whether the consequences of such a publication are themselves sufficient. I have considered therefore whether or not prohibiting Ms Haque, and the impact that will have on her, is proportionate and in the public interest.

In this case, I have considered the extent to which a prohibition order would protect children. The panel has observed, "Ms Haque's actions could have had a serious impact on pupils at the School". The panel went on to say it found, "Ms Haque's actions to be deliberate and calculated and was particularly concerned that she had attempted to involve pupils in the 'cover up'. The panel acknowledged that no actual harm had been caused by Ms Haque's instructions, but attributed this solely to the actions of the pupils involved, rather than Ms Haque." A prohibition order would therefore prevent such a risk from being present in the future.

I have also taken into account the panel's comments on insight and remorse, which the panel sets out as follows, "The panel considered Ms Haque's remorse to be genuine and accepted that the incident was out of character." The panel has also commented that whilst, "Ms Haque was remorseful, it did not believe that she had demonstrated any insight as to the potential impact on pupils". In my judgement, the lack of insight means that there is some risk of the repetition of this behaviour and this puts at risk the integrity of the exam system and the School's credibility. I have therefore given this element considerable weight in reaching my decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe, "that public confidence in the profession could be seriously weakened if conduct such as that found against Ms Haque was not treated with the utmost seriousness when regulating the conduct of the profession." I am particularly mindful of the finding of dishonesty in this case and the impact that such a finding has on the reputation of the profession.

I have had to consider that the public has a high expectation of professional standards of all teachers and that the public might regard a failure to impose a prohibition order as a failure to uphold those high standards. In weighing these considerations, I have had to consider the matter from the point of view of an "ordinary intelligent and well-informed citizen."

I have considered whether the publication of a finding of unacceptable professional conduct, in the absence of a prohibition order, can itself be regarded by such a person as being a proportionate response to the misconduct that has been found proven in this case.

I have also considered the impact of a prohibition order on Ms Haque herself.

The panel referenced a character statement from a former colleague of Ms Haque. "The referee, now an [REDACTED] at the University of Warwick, "appointed [Ms Haque] to a

role in [her] ICT department at a successful comprehensive school". The referee stated that she was "particularly attracted by [Ms Haque's] ability to engage students in creative tasks and her skill at motivating and working with all types of student". She stated that she "never had reason to question [Ms Haque's] honesty as a teacher" and that whenever Ms Haque needed help "she would ask for it without covering up any shortcomings on her own behalf". The referee noted that Ms Haque had previously marked and moderated a number of portfolios and that Ms Haque's gradings in the assessment were "extremely good"."

A prohibition order would prevent Ms Haque from teaching. A prohibition order would also clearly deprive the public of her contribution to the profession for the period that it is in force.

In this case, I have placed considerable weight on the panel's comments concerning the lack of insight or remorse. I have also considered the mitigation put forward by Ms Haque, "Ms Haque stated that there were many incidents like this "which led [her] to be very stressed and having [sic] a low self-esteem". Ms Haque explained that she felt bullied and "felt that no matter what [she] did and how hard [she] worked it was never good enough"."

I have given less weight in my consideration of sanction therefore, to the contribution that Ms Haque has made to the profession. In my view, it is necessary to impose a prohibition order in order to maintain public confidence in the profession. A published decision, in light of the circumstances in this case, that is not backed up by remorse or full insight, does not in my view satisfy the public interest requirement concerning public confidence in the profession.

For these reasons, I have concluded that a prohibition order is proportionate and in the public interest in order to achieve the intended aims of a prohibition order.

I have gone on to consider the matter of a review period. In this case, the panel has recommended a 3 year review period.

I have considered the panel's comments "The panel found that Ms Haque had acted in a dishonest manner and in a manner, which lacked integrity.

However, the panel acknowledged that Ms Haque had demonstrated genuine remorse for her actions."

I have considered whether a 3 year review period reflects the seriousness of the findings and is a proportionate period to achieve the aim of maintaining public confidence in the profession. In this case, three factors mean that a two-year review period is not sufficient to achieve the aim of maintaining public confidence in the profession. These elements are the dishonesty found, the fact that Ms Haque involved pupils in that dishonesty and the lack of full insight.

I consider therefore that a 3 year review period is required to satisfy the maintenance of public confidence in the profession.

This means that Ms Nyah Haque is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children's home in England. She may apply for the prohibition order to be set aside, but not until 19 February 2023, 3 years from the date of this order at the earliest. This is not an automatic right to have the prohibition order removed. If she does apply, a panel will meet to consider whether the prohibition order should be set aside. Without a successful application, Ms Haque remains prohibited from teaching indefinitely.

This order takes effect from the date on which it is served on the teacher.

Ms Nyah Haque has a right of appeal to the Queen's Bench Division of the High Court within 28 days from the date she is given notice of this order.

Decision maker: Dawn Dandy

Date: 11 February 2020

This decision is taken by the decision maker named above on behalf of the Secretary of State.