Federal Register

Thursday,
September 1, 2005

Part II

Election Assistance Commission

Publication of State Administrative Complaint Procedures Pursuant to the Help America Vote Act; Notice

ELECTION ASSISTANCE COMMISSION

Publication of State Administrative Complaint Procedures Pursuant to the Help America Vote Act

AGENCY: U.S. Election Assistance Commission (EAC).

ACTION: Notice.

SUMMARY: Pursuant to sections 253(b)(2) and 255(b) of the Help America Vote Act (HAVA), Public Law 107–252, the U.S. Election Assistance Commission (EAC) hereby causes to be published in the **Federal Register** the State administrative complaint procedures submitted by thirty-one States that had not included these procedures in their State plans previously published by EAC in the **Federal Register**.

DATES: This notice is effective upon publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Bryan Whitener, Telephone 202–566–3100 or 1–866–747–1471 (toll-free).

Submit Comments: Any comments regarding the procedures published herewith should be made in writing to the chief election official of the individual States at the address listed below.

SUPPLEMENTARY INFORMATION: HAVA section 253(b)(2) requires States, as a condition of receiving requirements payments in accordance with HAVA sections 251 and 252, to have filed with EAC a plan for the implementation of the uniform, nondiscriminatory administrative complaint procedures required under HAVA section 402 (or to have included such a plan in the State plan filed under HAVA section 254), and to have such procedures in place. If the State did not include such an implementation plan in its State plan, HAVA section 253(b)(2) requires that the requirements of HAVA sections 255(b) and 256 apply to the complaint procedures implementation plan. HAVA section 256 requires the State to make a preliminary version of the plan available for public inspection and comment for thirty days, to publish notice that the plan is so available, and to take public comments into account in preparing the complaint procedures implementation plan filed with EAC. HAVA section 255(b) requires EAC to publish the plan in the **Federal Register**, after the required State public comment period.

On March 24, 2004, the EAC published in the **Federal Register** the original HAVA State plans filed by the fifty States, the District of Columbia and the Territories of American Samoa, Guam, Puerto Rico, and the U.S. Virgin Islands. 69 FR 14002. Twenty-one States included their administrative complaint procedures in their original HAVA State plans. On September 30, 2004, EAC published in the **Federal Register** amendments to the State plans submitted by Nevada and South Carolina that also included the States' administrative complaint procedures. 69 FR 58630. On March 11, 2005, EAC published in the **Federal Register** amendments to Oklahoma's State plan that also included the State's administrative complaint procedures. 70 FR 12356. Another thirty-one States have submitted plans to implement the administrative complaint procedures separately from any State plans filed with EAC. These implementation plans are published herein, in accordance with HAVA sections 253(b)(2) and 255(b).

EAC notes that the plans to implement State administrative complaint procedures that are published herein include only those that have already met the notice and comment requirements of HAVA section 256, as required by HAVA section 253(b)(2). EAC wishes to acknowledge the effort that went into the developing these implementation plans and encourages further public comment, in writing, to the State election official of the individual States listed below.

Thank you for your interest in improving the voting process in America.

Chief State Election Officials

Alabama

The Honorable Nancy Worley, Secretary of State, P.O. Box 5616, Montgomery, AL 36103–5616, Phone: 334–242–7205, Fax: 334–242–4993, E-mail: *sos@sos.al.gov.*

Alaska

Ms. Laura A. Glaiser, Director, State of Alaska Division of Elections, PO Box 110017, Juneau, AK 99811–0017, Phone: 907–465–4611, Fax: 907–465–3203, E-mail: *elections@gov.state.ak.us.*

Arizona

The Honorable Jan Brewer, Secretary of State, Capitol Executive Tower 7th Floor, 1700 West Washington Street, Phoenix, AZ 85007–2888, Phone: (602) 542–8683, Fax: (602) 542–6172, E-mail: *elections@azsos.gov.*

Arkansas

The Honorable Charlie Daniels, Secretary of State, 256 State Capitol, Building, Little Rock, AR 72201, Phone: 501–682–3419, Fax: 501–682–3408, E-mail: *electionsemail@sos.arkansas.gov.*

Colorado

Mr. William A. Hobbs, Deputy Secretary of State, 1700 Broadway, Suite 270, Denver, CO 80290, Phone: 303–894–2200, Fax: 303–869–4861, E-mail: *sos.elections@sos.state.co.us.*

Connecticut

The Honorable Susan Bysiewicz, Secretary of State, State Capitol, Room 104, Hartford, CT 06106, Phone: 860–509–6100, Fax: 860–509–6127, E-mail: *lead@po.state.ct.us.*

District of Columbia

Ms. Alice P. Miller, Executive Director, Board of Elections & Ethics, 441 Fourth St. NW, Suite 250N, Washington, DC 20001, Phone: 202–727–2525, Fax 202–347–2648, E-mail: *boee@dc.gov.*

Georgia

The Honorable Cathy Cox, Secretary of State, 2 Martin Luther King Jr. Drive S.E., Suite 1104, West Tower, Atlanta, GA 30334–1530, Phone: 404–656–2871, Fax: 404–651–9531, E-mail: *sosweb@sos.state.ga.us.*

Guam

Mr. Gerald A. Taitano, Executive Director, Guam Election Commission, P.O. Box BG, Hagåtña, GU 96910, Phone: 671–477–9791, Fax: 671/477–1895, E-mail: *gec@ite.net.*

Hawaii

Mr. Dwayne D. Yoshina, Chief Election Officer, State of Hawaii Office of Elections, 802 Lehua Avenue, Pearl City, HI 96782, Phone: 808–453–8683, Fax: 808–453–6006, E-mail: *elections@aloha.net.*

Idaho

The Honorable Ben Ysursa, Secretary of State, P.O. Box 83720, Boise, ID 83720–0080, Phone: 208–334–2852, Fax: 208–334–2282, E-mail: *sosinfo@idsos.state.id.us.*

Illinois

Mr. Daniel W. White, Executive Director, State Board of Elections, P.O. Box 4187, Springfield, IL 62708, Phone: 217–782–4141, Fax: 217–782–5959, E-mail: *dwhite@elections.state.il.us.*

Kentucky

Ms. Sarah Ball Johnson, Executive Director, State Board of Elections, 140 Walnut Street, Frankfort, KY 40601–3240, Phone: 502–573–7100, Fax: 502–573–4369, E-mail: *sarahball.johnson@ky.gov.*

Massachusetts

The Honorable William Francis Galvin, Secretary of the Commonwealth, State House, Room 337, Boston, MA 02133, Phone: 617–727–2828, Fax: 617–742–3238, E-mail: *elections@sec.state.ma.us.*

Mississippi

The Honorable Eric Clark, Secretary of State, P.O. Box 136, Jackson, MS 39205–0136, Phone: 601–359–6359, Fax: 601–359–5019, E-mail: *Administrator@sos.state.ms.us.*

Missouri

The Honorable Robin Carnahan, Secretary of State, State Information Center, PO Box 1767, Jefferson City, MO 65102–1767, Phone: 573–751–2301, Fax: 573–526–3242, E-mail: *elections@sos.mo.gov.*

New Hampshire

The Honorable William Gardner, Secretary of State, State House, Room 204, Concord, New Hampshire 03301, Phone: 603–271–3242, Fax: 603–271–6316, E-mail: *elections@sos.state.nh.us.*

New Jersey

Mr. Ramón de la Cruz, Director, Division of Elections, Office of the Attorney General, P.O. Box 304, Trenton, NJ 08625–0304, Phone: 609–292–3760, Fax: 609–777–1280, E-mail: *njelections@lps.state.nj.us.*

New Mexico

The Honorable Rebecca Vigil-Giron, Secretary of State, State Capitol Annex North, 325 Don Gaspar, Suite 300, Santa Fe, NM 87503, Phone: 505–827–3600, Fax: 505–827–8403, E-mail: *secstate@state.nm.us.*

New York

Mr. Peter Kosinski, Deputy Executive Director, State Board of Elections, 40 Steuben Street, Albany, NY 12207–2108, Phone: 518–474–8100, Fax: 518–486–4068; E-mail: *info@elections.state.ny.us.*

Ohio

The Honorable J. Kenneth Blackwell, Secretary of State, 180 E. Broad Street, 16th Floor, Columbus, OH 43215, Phone: 614–466–2655, Fax: 614–644–0649, E-mail: *election@sos.state.oh.us.*

Oregon

The Honorable Bill Bradbury, Secretary of State, 141 State Capitol, Salem, OR 97310–0722, Phone: 503–986–1518, Fax: 503–373–7414, E-mail: *elections-division@sosinet.sos.state.or.us.*

Puerto Rico

Lcdo. Aurelio Gracia Morales, Presidente, State Elections Commission, P.O. Box 195552, San Juan, PR 00919–5552, Phone: 787–77–8675, Fax: 787–296–0173, E-mail: *comentarios@cee.gobierno.pr.*

Rhode Island

Mr. Robert Kando, Executive Director, Rhode Island Board of Elections, 50 Branch Avenue, Providence, RI 02904–2790, Phone: 401–222–2345, Fax: 401–222–3135, E-mail: *campaignfinance@elections.ri.gov.*

South Dakota

The Honorable Chris Nelson, Secretary of State, Capitol Building, 500 East Capitol Avenue, Suite 204, Pierre, SD 57501–5070, Phone: 605–773–3537, Fax: 605–773–6580; E-mail: *sdsos@state.sd.us.*

Texas

The Honorable Roger Williams, Secretary of State, P.O. Box 12887, Austin, TX 78711–2887, Phone: 512–463–5770, Fax: 512–475–2761, E-mail: *secretary@sos.state.tx.us.*

Vermont

The Honorable Deborah L. Markowitz, Secretary of State, Redstone Building, 26 Terrace Street, Drawer 09, Montpelier, VT 05609–1101, Phone: 802–828–2304, Fax: 802–828–5171; E-mail: *dmarkowitz@sec.state.vt.us.*

Virginia

Ms. Jean R. Jensen, Secretary, State Board of Elections, 200 North 9th Street, Suite 101, Richmond, VA 23219, Phone: 804–864–8901, Fax: 804–371–0194, E-mail: *HAVA@sbe.virginia.gov.*

Virgin Islands

Mr. John Abramson, Jr., Supervisor of Elections, Election System of the Virgin Islands, P.O. Box 1499, Kingshill, St. Croix, VI 00851–1499, Phone: 340–773–1021, Fax: 340–773–4523, E-mail: *electionsys@unitedstates.vi.*

Washington

The Honorable Sam Reed, Secretary of State, P.O. Box 40220, Olympia, WA 98504–0220, Phone: 360–902–4151, Fax: 360–586–5629, E-mail: *elections@secstate.wa.gov.*

Wisconsin

Mr. Kevin J. Kennedy, Executive Director, Wisconsin State Elections Board, P.O. Box 2973, Madison, WI 53701–2973, Phone: 608–266–8005, Fax: 608–267–0500, E-mail: *seb@seb.state.wi.us.*

Dated: August 22, 2005.

Gracia M. Hillman,

Chair, U.S. Election Assistance Commission.

BILLING CODE 6820–KF–P

STATE OF ALABAMA

THE OFFICE OF THE SECRETARY OF STATE

CHAPTER 820-2-5 PROCEDURE TO COMPLAIN ABOUT VIOLATIONS OF TITLE III OF THE FEDERAL HELP AMERICA VOTE ACT OF 2002

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820-2-5-.01 Applicability And Purpose.

(1) This Chapter is established for the purpose of offering the public an administrative complaint procedure for allegations pertaining to violations of Title III of the federal Help America Vote Act of 2002, Pub. L. 107-252.

Author: Charles E. Grainger, Jr.

Statutory Authority: Code of Ala. 1975, §17-4-250(a); §§1 and 8 of Act 03-313; Attorney General Opinion No. 97-00109.

History: New Rule: Filed September 26, 2003; effective October 31, 2003.

820-2-5-.02 Procedures.

(1) Complaints.

(a) Complaints which include a request for a hearing shall proceed in accordance with Chapter 820-1-2, Rules of Practice, except as otherwise provided in this Chapter.

(b) Complaints must be submitted in writing and notarized, and signed and sworn by the complaining person. Complaints may be submitted on a form prescribed by the Secretary of State for this purpose.

(c) Complaints must identify either in the heading or the first paragraph one or more of the following sections of Title III of the federal Help America Vote Act of 2002 which the complaining person alleges has been violated:

1. Section 301. Voting System Standards.

2. Section 302. Provisional Voting and Voting Information Requirements.

3. Section 303. Computerized Statewide Voter Registration List Requirements and Requirements for Voters Who Register By Mail.

4. Section 304. Minimum Requirements.

5. Section 305. Methods of Implementation Left to Discretion of State.

6. Section 311. Adoption of Voluntary Guidance By Commission.

(d) The complaint shall also identify the following:

1. To the extent known, which individuals failed to comply with Title III;

2. To the extent known, where the violation of Title III occurred;

3. A short and plain statement of the occurrence, procedure or practice which violates a particular section in Title III; and

4. Explain why the occurrence, procedure, or practice is a violation of Title III.

(2) Complaints which fail to request a hearing shall be reviewed in the following manner:

(a) The staff or other designee(s) of the Secretary of State, such as county Judges of Probate, shall investigate the complaint. Within 30 days from the receipt of the complaint, except for good cause shown, the investigator shall issue a written report and recommendation to the Secretary of State. The Secretary of State may reject, approve or require additional investigation associated with some or all of the report and recommendation.

(b) Upon the satisfaction of the Secretary of State that the investigation of the complaint is sufficient in order to make a final determination of the complaint, the Secretary of State shall issue an order setting forth the findings, conclusions and remedies (if any) resulting from the complaint and shall mail a copy to the complainant and each known party by first class mail within 90 days of the complaint having been received by the Secretary of State.

(3) Complaints which are not resolved within 90 days from the date received by the Secretary of State shall be resolved through alternative dispute resolution within 150 days from the date the original complaint was filed with the Secretary of State. Complaints not resolved by alternative dispute resolution within 150 days from the date the original complaint was filed with the Secretary of State shall be treated as resolved against the complainant.

(4) Orders which dismiss the complaint upon a determination that there has not been a violation of Title III shall be published by the Office of the Secretary of State on its internet site at http://www.sos.state.al.us within seven days of receipt or issuance of the order by the Secretary of State.

Author: Charles E. Grainger, Jr.

Statutory Authority: Code of Ala. 1975, §17-4-250(a); §§1 and 8 of Act 03-313; Attorney General Opinion No. 97-00109.

History: New Rule: Filed September 26, 2003; effective October 31, 2003.

820-2-5-.03 Remedies. If, under these procedures, the Secretary of State determines that there has been a violation of Title III, the order of the Secretary of State shall direct the appropriate remedy. See Sub-section 8 (5) of Act 03-313 of the State of Alabama and Section 402 (a)(2)(G) of the federal Help America Vote Act of 2002, Pub. L. 107-252.

Author: Charles E. Grainger, Jr.

Statutory Authority: Code of Ala. 1975, §17-4-250(a); §§1 and 8 of Act 03-313; Attorney General Opinion No. 97-00109.

History: New Rule: Filed September 26, 2003; effective October 31, 2003.

Director's Office
PO Box 110017
Juneau, Alaska 99811-0017
907.465.4611 907.465.3203 FAX
elections@gov.state.ak.us

Regional Offices
Anchorage 907.522.8683
Fairbanks 907.451.2835
Juneau 907.465.3021
Nome 907.443.5285

STATE OF ALASKA
Division of Elections
Office of the Lieutenant Governor

ADMINISTRATIVE COMPLAINT FILING PROCESS

Any person who believes that there is a violation of any provision of Title III of the Help America Vote Act of 2002, 42 U.S.C. §§ 15481-15485, including a violation that has occurred, is occurring, or is about to occur, may file a complaint.

Title III of the Help America Vote Act is available for viewing at the following web site:
http://www.gov.state.ak.us/ltgov/elections/hava.htm

The administrative complaint procedure is set out in Alaska Administrative Code, 6 AAC 25.400 - 6 AAC 25.490.

The Alaska Administrative code is available for viewing at the following web site:
http://old-www.legis.state.ak.us

HOW TO FILE A COMPLAINT

A complaint must be in writing. An Alaska Divisions of Elections Administrative Complaint form is available online at http://www.elections.state.ak.us/. Persons may also contact any of our Regional Offices to get a form, or call our statewide toll-free administrative complaint line: 1-888-465-5857.

The complaint must be:
a) signed by the complainant
b) notarized and sworn under oath by the complainant
c) and contain the following:
   (1) full name of the complainant;
   (2) mailing address of the complainant;
   (3) each provision of 42 U.S.C. 15481 - 15485 for which a violation is claimed;
   (4) and a description of the facts constituting the claimed violation.

The complaint must set out a clear and concise description of the claimed violation that is sufficiently detailed to apprise both the respondent(an election official whose actions are asserted), in a complaint under 6 AAC 25.400 - 6 AAC 25.490, to be in violation of 42 U.S.C. 15481 – 15485) and the director of the claimed violation.

WHERE TO FILE A COMPLAINT

The original complaint must be filed with the Director and mailed to:

Division of Elections
Director's Office
P.O. Box 110017
Juneau, Alaska
99811-0017

A written complaint must be filed with the director, along with:

1. adequate proof of mailing or delivery of a copy of the complaint to each respondent; or
2. a request for mailing or delivery by the Director of the Division of Elections to each respondent.

A complaint must be filed within 60 days after the:

1. occurrence of the actions or events that form the basis for the complaint, including any actions or events that form the basis for the complainant's belief that a violation is about to occur; or
2. complainant knew or, with the exercise of reasonable diligence, should have known of actions or events described in (1) of this subsection.

The Director will examine each complaint, and will reject it for filing if:

1. it is not signed and notarized under oath;
2. it does not identify the complainant or include an adequate mailing address;
3. it does not, on its face, allege a violation of 15 U.S.C. 15481 - 15485 with regard to a federal election; or
4. more than 90 days have elapsed since the final certification of the federal election at issue.

You may contact any of our State of Alaska Election Offices for further information:

Director's Office
PO Box 110017
Juneau, Alaska 99811-0017
907.465.4611 phone
907.465.3203 FAX

Regional Offices
Anchorage 907.522.8683
Fairbanks 907.451.2835
Juneau 907.465.3021
Nome 907.443.5285

Call our toll-free phone number: 1-888-465-5857

TTY call toll-free 1-888-622-3020

Article 2

Administrative Complaint Procedure for Violations of the Help America Vote Act of 2002

Section

400. Purpose and applicability.
410. Who may file.
420. Form of complaint.
430. Place and time for filing; copy for Respondent.
440. Processing of complaint.
450. Hearing.
460. Final determination.
470. Alternative dispute resolution through a hearing officer.
490. Definitions.

6 AAC 25.400. Purpose and applicability (a) The purpose of 6 AAC 25.400 - 6 AAC 25.490 is to provide a uniform, nondiscriminatory procedure to the resolution of any complaint alleging a violation of 42 U.S.C. 15481 - 15485 (title III of the Help America Vote Act of 2002), including a violation that has occurred, is occurring, or is about to occur.
(b) The procedures set out in 6 AAC 25.400 - 6 AAC 25.490 do not apply to an election recount under AS 15.20.430 - 15.20.530, or to an election contest under AS 15.20.540 - 15.20.560. A complainant who wishes to challenge the validity of a primary, general, or special election, or to determine the validity of a ballot or vote must seek relief as otherwise provided by law.
Eff. 8/29/2003, Register 167

Authority: AS 15.05.010

6 AAC 25.410. Who may file A person who believes that a violation of 42 U.S.C. 15481 - 15485 has occurred, is occurring, or is about to occur may file a complaint. Eff. 8/29/2003, Register 167

Authority: AS 15.15.010

6 AAC 25.420. Form of complaint (a) A complaint must be in writing. The complaint must contain the following information, in a statement that is notarized, signed by the complainant, and sworn under oath by the complainant:
(1) the name of the complainant;
(2) the mailing address of the complainant,
(3) each provision of 42 U.S.C. 15481 - 15485 for which a violation is claimed;
(4) a description of the facts constituting the claimed violation.
(b) The complaint must set out a clear and concise description of the claimed violation that is sufficiently detailed to apprise both the respondent and the director of the claimed violation.
(c) The complainant may file a complaint using a form provided by the division, or using another form that satisfies the requirements of (a) - (b) of this section.
Eff. 8/29/2003, Register 167

Authority: AS 15.15.010

Editor's note: A copy of 42 U.S.C. 15481 - 15485, and a complaint form as described in 6 AAC 25.410(b), may be obtained from an office of the Division of Elections, or by requesting the items from the Division of Elections, P.O. Box 110017, Juneau AK 99811-0017, telephone (907) 465-4611, fax (907) 465-3203, TTY (907) 465-3020. A complaint form may also be printed or downloaded from the Division of Elections Internet web site, www.elections.state.ak.us.

6 AAC 25.430. Place and time for filing; copy for respondent. (a) A complaint must be filed with the director, along with
(1) adequate proof of mailing or delivery of a copy of the complaint to each respondent; or
(2) a request for mailing or delivery under (c) of this section.
(b) A complaint must be filed within 60 days after the
(1) occurrence of the actions or events that form the basis for the complaint, including any actions or events that form the basis for the complainant's belief that a violation is about to occur, or
(2) complainant knew or, with the exercise of reasonable diligence, should have known of actions or events described in (1) of this subsection.
(c) The complainant must mail or deliver a copy of the complaint to each respondent, or request that the director mail or deliver a copy to each respondent.
(d) The director will examine each complaint, and will reject it for filing if
(1) it is not signed and notarized under oath;
(2) it does not identify the complainant or include an adequate mailing address;
(3) it does not, on its face, allege a violation of 15 U.S.C. 15481 - 15485 with regard to a federal election; or
(4) more than 90 days have elapsed since the final certification of the federal election at issue. Eff. 8/29/2003, Register 167

Authority: AS 15.15.010

6 AAC 25.440. Processing of complaint (a) To review a complaint that is filed without a request for hearing under 6 AAC 25.450(a), or to hear a complaint for which a hearing has been requested, the director will, if the director has not been directly involved in the actions or events that are the subject of the complaint,
(1) review or hear the complaint personally, and make a final determination on the complaint;
(2) designate an employee of the division to review or hear the complaint, and to prepare a proposed determination for the director's consideration; or

(3) appoint a hearing officer from outside the division to review or hear the complaint, and to prepare a proposed determination for the director's consideration.
(b) A designee of the director or hearing officer under (a) of this section may not be, and may not have been, directly involved in the actions or events that are the subject of the complaint, and may not directly supervise or be directly supervised by any respondent.
(c) If the director has been directly involved in the actions or events that are the subject of the complaint, the director will refer the complaint, for resolution under 6 AAC 25.400 - 6 AAC 25.490, to the director of the office of management and budget within the office of the governor, or to a member of office of management and budget designated by the director of the office of management and budget.
(d) The director, director's designee, or hearing officer may consolidate complaints if they relate to the same actions or events, or if they raise common questions of law or fact.
(e) The director will, or the director's designee or a hearing officer shall, allow a complainant to proceed with the assistance of an English language or American Sign Language interpreter if the complainant is unable to proceed without assistance of an interpreter. A complainant who needs an interpreter is responsible for securing and paying for the services of the interpreter, except to the extent that federal law requires that the state be responsible for payment for interpreter services.
(f) The director will, or the director's designee or a hearing officer shall, in coordination with the parties, establish a schedule under which the complainant and respondent may file written submissions concerning the complaint and under which the complaint will be finally determined.
(g) The director will, or the director's designee or a hearing officer shall, compile and maintain an official record in connection with each complaint under 6 AAC 25.400 - 6 AAC 25.490, including the following materials:
(1) a copy of the complaint, including any amendments made with the permission of the director;
(2) a copy of any written submission by the complainant;
(3) a copy of any written response by any respondent or other interested person;
(4) a written report of any investigation conducted by employees of the division; those employees may not be, and may not have been, directly involved in the actions or events that are the subject of the complaint, and may not directly supervise or be directly supervised by any respondent;
(5) copies of all notices and correspondence to or from the director in connection with the complaint;
(6) originals or copies of any tangible evidence produced at any hearing conducted under 6 AAC 25.450;
(7) the original tape or electronic recording produced at any hearing conducted under 6 AAC 25.450, and a copy of any transcript obtained or filed, subject to 6 AAC 25.450(f), for inclusion in the record; and
(8) a copy of any final determination made under 6 AAC 25.460 or 6 AAC 25.470. Eff. 8/29/2003, Register 167

Authority: AS 15.15.010

6 AAC 25.450. Hearing (a) At the request of the complainant, a hearing on the record will be conducted.
(b) The hearing will be conducted no later than 30 days after the director receives the complaint. At least 10 working days before the date of the hearing, the division will give notice of the date, time, and place of the hearing
(1) by mail, to the complainant, each named respondent, and any other interested person who has asked in writing to be advised of the hearing;
(2) on the division's Internet web site; and
(3) by posting in a prominent place, available to the general public, at the offices of the division.
(c) The complainant, any respondent, or any other interested person may appear at the hearing and testify or present tangible evidence in connection with the complaint. Each witness must be sworn. An interested person who is unable to appear at the hearing in person may present testimony by telephone or through a written statement, subject to the requirements of this subsection. The time for and content of testimony may be limited to ensure that all interested participants are able to present their views, to exclude irrelevant or repetitious testimony, and to ensure compliance with the time limits under 6 AAC 25.460 - 6 AAC 25.470 for a final determination. The hearing may be recessed and reconvened at a later date, time, and place announced publicly at the hearing.
(d) An attorney may represent a complainant or other person who testifies or presents evidence at the hearing.
(e) Cross-examination will be allowed, and a person may testify or present evidence to rebut any other testimony or evidence. The time for and content of cross-examination and rebuttal testimony may be limited to ensure that all interested participants are able to present their views, to exclude irrelevant or repetitious testimony, and to ensure compliance with the time limits under 6 AAC 25.460 - 6 AAC 25.470 for a final determination.
(f) At its own expense, the division will record the proceedings by tape or other electronic means. At its own expense, the division or any party may arrange to have a transcript prepared of the recording. Any transcript that the division obtains is part of the official record. If a party arranges for preparation of a transcript, the party must file it in order for the transcript to be included as part of the official record. A party or interested person may examine a transcript that is included as part of the official record.
(g) A party may file a written brief or memorandum within five working days after the conclusion of the hearing. Responsive or reply memoranda will not be accepted, except with specific authorization as the director, director's designee, or hearing officer determines necessary to make a determination on the complaint. Eff. 8/29/2003, Register 167

Authority: AS 15.15.010

6 AAC 25.460. Final determination (a) If the complainant has not requested a hearing under 6 AAC 25.450, the director will review the record and determine whether, under a preponderance of the evidence standard, a violation of 42 U.S.C. 15481 - 15485 has been established. If a division employee has been designated or hearing officer has been appointed under 6 AAC 25.440(a) (2) or (a)(3), that person shall review the record and prepare a proposed determination as to whether a violation of 42 U.S.C. 15481 - 15485 has been established, based upon a preponderance of the evidence standard. After review of the record, the director will adopt the proposed determination as the final determination, adopt the proposed determination with modifications as the final determination, or reject the proposed determination.
(b) After any hearing conducted under 6 AAC 25.450, and after the submission under 6 AAC 25.450(g) of any written briefs or memoranda, the director will determine under a preponderance of the evidence standard whether a violation of 42 U.S.C. 15481 - 15485 has been established. If a division employee has been designated or hearing officer has been appointed under 6 AAC 25.440(a) (2) or (a)(3), that person shall review the record and prepare a proposed determination as to whether a violation of 42 U.S.C. 15481 - 15485 has been established, based upon a preponderance of the evidence standard. After review of the record, the director will adopt the proposed determination as the final determination, adopt the proposed determination with modifications as the final determination, or reject the proposed determination.
(c) For any violation established under this section, the director will provide a remedy directed to the improvement of procedures that are subject to 42 U.S.C. 15481 - 15485. As part of the remedy, the director may include an order requiring any respondent to take specified action, or prohibiting any respondent from taking specified action, with respect to a past or future election. However, the director will not award money damages, attorney fees, or costs as part of a remedy.
(d) If the complaint is not timely, or if the director determines that a violation has not occurred or that the evidence is insufficient to establish a violation, the director will dismiss the complaint.
(e) The director will explain in a written decision the reasons for a determination and for any remedy selected.
(f) Except as specified in 6 AAC 25.470, a final determination under (a) or (b) of this section will be issued within 90 days after the complaint was filed, unless the complainant consents in writing to an extension. However, if a hearing officer is appointed under 6 AAC 25.440(a) (3), the hearing officer shall present a proposed determination to the director within 120 days after the complaint was filed, and the director will issue a final determination within 150 days after the complaint was filed. The final determination will be mailed to the complainant, each respondent, and any other interested person who has asked in writing to be advised of the final determination. It will also be posted on the division's Internet web site and made available on request to any interested person.
(g) Except as described in (f) of this section, if a final determination under (a) or (b) of this section is not or cannot be made within 90 days after the complaint was filed, or within any extension to which the complainant consents, the complaint will be referred for final resolution under 6 AAC 25.470. The record compiled under 6 AAC 25.440(c) will be made available for use under 6 AAC 25.470.
(h) The final determination under (a) or (b) of this section constitutes the final decision of an administrative agency under AS 22.10.020 (d), for which review may be sought under the Alaska Rules of Appellate Procedure. Eff. 8/29/2003, Register 167

Authority: AS 15.15.010

6 AAC 25.470. Alternative dispute resolution through a hearing officer (a) If a hearing officer has not already been appointed under 6 AAC 25.440(a) (3), and if the director has not made a final determination within 90 days after the complaint was filed, or within any extension to which the complainant consents under 6 AAC 25.460(f), the director will appoint a hearing officer from outside the division to review or hear the complaint, and to prepare a proposed determination for the director's consideration. The hearing officer may not be, and may not have been, directly involved in the actions or events that are the subject of the complaint.
(b) The hearing officer shall review the record compiled in connection with the complaint, including the tape or electronic recording of any hearing, any transcript of a hearing, and any briefs or memoranda. As necessary to prepare a proposed determination, the hearing officer may request that the parties present additional briefs or memoranda.
(c) After review of the record and any additional briefs or memoranda requested under (b) of this section, the hearing officer shall prepare a proposed determination as to whether a violation of 42 U.S.C. 15481 - 15485 has been established, based upon a preponderance of the evidence standard. The hearing officer shall present the proposed determination to the director within 120 days after the complaint was filed. After review of the record, the director will adopt the proposed determination as the final determination, adopt the proposed determination with modifications as the final determination, or reject the proposed determination. The director will issue a final determination within 150 days after the complaint was filed. The final

determination will be mailed to the complainant, each respondent, and any other interested person who has asked in writing to be advised of the final determination. It will also be posted on the division's Internet web site and made available on request to any interested person.
(d) The final determination under (c) of this section constitutes the final decision of an administrative agency under AS 22.10.020 (d), for which review may be sought under the Alaska Rules of Appellate Procedure. Eff 8/29/2003, Register 167

Authority: AS 15.15.010

6 AAC 25.490. Definitions

In 6 AAC 25.400 - 6 AAC 25.490, unless the context requires otherwise,
(1) "complainant" means a person who files a complaint with the director under 6 AAC 25.400 - 6 AAC 25.490;
(2) "respondent" means an election official whose actions are asserted, in a complaint under 6 AAC 25.400 - 6 AAC 25.490, to be in violation of 42 U.S.C. 15481 - 15485;
(3) "working day" means a day other than Saturday, Sunday, or a state holiday. Eff 8/29/2003, Register 167

Authority: AS 15.15.010

Director's Office
PO Box 110017
Juneau, Alaska 99811-0017
Phone: 907-465-4611
Fax: 907-465-3203

STATE OF ALASKA
Division of Elections
Office of the Lieutenant Governor

For Office Use Only
Date received in Director's Office:

Complaint #

ADMINISTRATIVE COMPLAINT FORM

This form may be used by any person alleging a violation of Title III of the Help America Vote Act of 2002,42 U.S.C. § 15481-15485 that has occurred, is occurring, or is about to occur.

PLEASE CLEARLY PRINT OR TYPE ALL INFORMATION

Complainant (person alleging violation of Title III)

Name of Complainant: _____
Mailing Address: _____
City: _____ State: _____ Zip: _____
Daytime Phone Number: _____ Fax Number: _____
E-mail Address: _____

Respondent(s) (person(s) alleged in claim to have committed violation of Title III)

Name of Respondent: _____
Mailing Address: _____
City: _____ State: _____ Zip: _____
Daytime Phone Number: _____ Fax Number _____
E-mail Address: _____

Community name and precinct location of alleged violation(s): _____

Polling place location of alleged violation(s): _____

Date(s) of alleged violation(s): _____

Please explain the basis for your complaint, including each provision of 42 U.S.C. § 15481-15485 in which a violation is being alleged. Include names and addresses of any witnesses to alleged violation(s). Please attach separate sheet(s).

ADMINISTRATIVE COMPLAINT FORM

State in your own words the detailed facts that form the basis of your complaint, including names of any relevant person(s). In your narrative explanation, please include specific dates, times, as well as any reasons you believe the alleged violation(s) were knowingly committed by the person(s) against whom this complaint is brought. Please attach separate sheet(s).

Would you like to request a hearing on the record? ☐ Yes ☐ No

I have mailed or delivered a copy to named respondent(s) in complaint: ☐ Yes ☐ No
OR
I request the Director of Elections to mail or deliver a copy to each named respondent in complaint:

☐ Yes ☐ No

State of Alaska

City: _____

I, the undersigned, under penalty of perjury, do swear or affirm that the information contained in this complaint is true and correct to the best of my knowledge:

_____ Printed Name of Complainant

_____ Signature of Complainant

SUBSCRIBED AND SWORN TO before me on this ____ day of _____, 20____.

_____ Notary Public in and for the

_____

NOTARY SEAL

My commission expires: _____

Mail the original signed and notarized Administrative Complaint to:
Director
Division of Elections
PO Box 110017
Juneau, Alaska 99811-0017

NOTICE: This complaint is not confidential, and once filed with the Director's Office, shall be treated as public record.

A01 (Rev. 6/04)

State Of Arizona Grievance Process

HELP AMERICA VOTE ACT OF 2002, TITLE IV, SECTION 402

SECTION 1. SCOPE.

The secretary of state has a statewide complaint system to address complaints involving a violation of any provision of Title III of the Help America Vote Act of 2002 (HAVA) [42 U.S.C. §§15481-15485]. The statewide system will provide secure online access and phone call center access for complaint processing to the secretary of state or a designee. The system also provides secure online review of the complaint by the submitter. Upon receiving the formal complaint in the secretary of state's office either by mail or hand delivery, the secretary of state's office shall begin the resolution process.

Under this process any person may file a complaint who believes that there has been a violation, a violation is occurring, or a violation will be occurring related to any provision of Title III of HAVA. These procedures shall be uniform and non-discriminatory. If under these procedures the secretary of state determines that there is a HAVA Title III Violation, an appropriate remedy shall be provided to the extent permitted by law. If the secretary of state determines that the complaint does not allege a HAVA Title III Violation, the secretary of state may dismiss the complaint or refer it to the proper agency for resolution.

SECTION 2. DEFINITIONS.

1) "Complainant" means any person who files a complaint with the secretary of state under the State of Arizona Grievance Process.

2) "HAVA Title III Violation" means an act contrary to a party's statutory rights regarding voting system standards, provisional voting procedures, voter registration procedures, and operational standards of the statewide voter registration system as found in A.R.S. § 16-168(K) and Title III of HAVA. It does not mean non-Title III election law matters, including a candidate's ballot access or campaign finance matters.

3) "Person" means any individual residing in the State of Arizona at the time the complaint is filed.

4) "Respondent" means any person or entity, who is named in a complaint under these provisions, and is alleged to have violated, is violating, or is about to violate any provision of Title III of HAVA.

5) "Title III" means Title III of the Help America Vote Act of 2002, Public Law 107-252, 116 Stat. 1666 (2002), codified at 42 United States Code §§ 15481-15485.

SECTION 3. FORM OF COMPLAINT.

1) A complaint filed under this procedure shall be in writing, notarized, signed and sworn to. A standardized form for the complaint is available by any of the following methods: on the secretary of state's web site at www.azsos.gov, from the election official in the complainant's county of residence, or it can be mailed at the request of the complainant. The form provided by the secretary of state is available in both English and Spanish and is accessible to persons with disabilities.

2) The complainant may use any other written document to submit the complaint provided that it satisfies the requirements of subsection 1 and includes a description of the alleged violation which has occurred, is occurring, or is about to occur and indicates whether a hearing is requested.

SECTION 4. INSTRUCTIONS FOR FILING.

1) Where to File. The complaint may be filed in person or by mail at the Arizona Secretary of State's Office, 1700 West Washington, 7th Floor, Phoenix, Arizona 85007, or 400 West Congress, 2nd Floor, Room 252, Tucson, Arizona 85701. Forms cannot be accepted by e-mail or facsimile.

2) When to File. Any person may file a complaint who believes that there has been a violation, a violation is occurring, or a violation will be occurring related to any provision of Title III of HAVA. A complaint may be filed up to but no more than 60 days following the occurrence of the alleged violation of Title III.

SECTION 5. PROCESSING OF COMPLAINT.

1) Consolidation. In the event the complaint raises common questions of law and fact to other pending complaints, the secretary of state may consolidate the complaints and notify the complainants of the changed status.

2) Notice to Respondents. Within 5 business days of receiving a complaint in the secretary of state's office, the secretary of state shall notify all respondents of the allegations made in the complaint. This subsection shall not apply if the secretary of state has reason to believe that notifying a respondent or respondents of the complaint filed might compromise a criminal investigation or prosecution or other enforcement action by any local, state or federal agency.

SECTION 6. HEARING.

1) Within 5 business days of receiving a complaint in the secretary of state's office that requests a hearing, the secretary of state shall notify the Office of Administrative Hearings in accordance with Arizona Administrative Code (A.A.C.) R2-19-103 to schedule a hearing.

2) The hearing shall be conducted no sooner than 10 days and no later than 60 days after the secretary of state receives the complaint in the secretary of state's office.

3) The hearing shall be conducted in accordance with the procedures set forth in Title 41, Chapter 6, Article 9 and the Arizona Administrative Code, Chapter 19, Article 1.

4) The complainant shall bear the burden of persuasion.

5) The administrative law judge decision issued pursuant to A.R.S. § 41-1092.08(A) shall include an appropriate remedy if an appropriate remedy is available. Such remedy shall be consistent with the provisions of Section 9.

SECTION 7. FINAL DETERMINATION.

The secretary of state or the secretary of state's designee may accept, reject or modify the decision of the administrative law judge pursuant to A.R.S. § 41-1092.08(D) and such action shall constitute the final determination with respect to the complaint. The secretary of state shall give notice to all parties involved of this determination. The final determination shall be made within 90 days of the filing of the complaint with the secretary of state unless the complainant consents to a longer period.

SECTION 8. ALTERNATIVE DISPUTE RESOLUTION.

1) If the secretary of state or the secretary of state's designee fails to meet the deadline set forth in section 7, the complaint shall be resolved within 60 days under the alternative dispute resolution procedures established by this section.

2) On or before the 5th business day after a final determination was due, the secretary of state shall designate in writing an administrative law judge who shall be a neutral party not associated with the complainant or any respondent.

3) The administrative law judge may review the record compiled in connection with the complaint, but need not receive additional testimony or evidence. The administrative law judge may request that the parties present additional briefs, memoranda or oral testimony.

4) Subject to the provisions of Section 9, the administrative law judge shall determine the appropriate remedy for the complaint to the extent provided by law.

5) The administrative law judge must issue a written resolution within 60 days after the secretary of state's final determination was due under Section 7. This 60-day period may not be extended without the express written consent of the complainant. The final resolution shall be transmitted by the administrative law judge to the secretary of state and shall be the final resolution of the complaint. The secretary of state shall mail the final resolution to the complainant, each respondent, and any other interested person who has asked in writing to be advised of the final resolution. It shall also be published on the secretary of state website and made available on request to any interested person. However, no mailing, publication or other providing of the determination or remedy shall be required if the secretary of state has reason to believe that such mailing, publication or providing might compromise a criminal investigation or prosecution or other enforcement action by any local, state or federal agency.

SECTION 9. REMEDIES.

No remedy may involve the awarding of compensatory or punitive monetary damages to a complainant or a finding that an election official is subject to civil penalties. An appropriate remedy may include, but is not limited to any or all of the following:

a. a plan for rectifying the particular violation;

b. an order requiring that additional training will be provided to election officials so as to ensure compliance with Title III and the Arizona Revised Statutes, Title 16; and

c. an order requiring additional voter education.

State of Arizona

Election Grievance Form

JANICE K. BREWER, SECRETARY OF STATE

Election Services Division, 1700 W. Washington, 7th Fl., Phoenix, Arizona 85007

Secretary of State Use Only
Do not write or staple in this space

This form is to be used by anyone alleging a violation of Title III of the Help America Vote Act (HAVA) of 2002, 42 U.S.C. §§ 15481-15485.

TYPE or PRINT ALL INFORMATION.
Please fill out this form completely, have it notarized and return it to the address above.
For more information, call Toll-free (in-state) 1-877-THE VOTE (1-877-843-8683); or 602-542-8683. TDD # 602-255-8683.
Visit www.azsos.gov for more information about HAVA and the State of Arizona HAVA Plan.

Personal Information

Last Name	First Name		
Mailing Address (include apartment # if applicable)	City	State	Zip Code
Daytime Phone Number (include area code)	Fax Number (include area code)		
E-mail address			

Federal Law Violations Under HAVA individuals may file a complaint if a violation: has occurred; is occurring; or is about to occur.

Date of alleged violation		Place of alleged violation	
Provisional Ballot ☐ I was not allowed to vote using a provisional ballot	***New Voter Registration*** ☐ Provisions regarding verification of new voter registration were not followed	***Provisional Ballot Not Counted*** ☐ I was not able to determine whether my provisional ballot was counted	***Posting Voter Information*** ☐ Required voting information was not publicly posted in a polling place on Election Day
Other federal law violation ☐ If other violation, fill out information to the right.	Section of Title III of the Help America Vote Act of 2002 allegedly violated.		
	Describe Violation Here:		

☐ Would you like the Office of Administrative Hearings to conduct a hearing on the record?

Signature of complainant

State of Arizona)
County of _____)

(seal)

Subscribed and sworn (or affirmed) before me this _____ day of _____, _____.

_____
Notary Public

Grievance Form Rev. 072304

RULES FOR HELP AMERICA VOTE ACT ADMINISTRATIVE COMPLAINT PROCEDURE

State Board of Election Commissioners
501 Woodlane, Suite 122
Little Rock, AR 72201
(800) 411-6996

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Scope of Rules

These rules set forth the procedures for providing uniform and nondiscriminatory resolution of any complaint alleging a violation of any provision of Title III of the Help America Vote Act of 2002, including a violation that has occurred, is occurring, or is about to occur.

§ 400 Definitions

a) "Complainant" means any person who believes that a violation of any provision of Title III has occurred, is occurring, or is about to occur who files a complaint with the State Board of Election Commissioners, hereinafter referred to as the "State Board."

b) "Respondent" means any State or local election official whose actions are asserted, in a complaint filed with the State Board, to be in violation of Title III.

c) "Title III" means Title III of the Help America Vote Act of 2002, Public Law 107-252, and 116 Stat. 1666 (2002), codified at 42 United States Code §§15481-15485.

§401 Who May File

Any person who believes that a violation of any provision of Title III has occurred, is occurring, or is about to occur may file a complaint.

§ 402 Form of Complaint

A complaint shall be in writing, notarized, signed, and sworn by the Complainant.

§ 403 Filing a Complaint

A. Place for Filing.

A complaint shall be filed with the State Board.

B. Time for Filing.

A complaint shall be filed within thirty (30) days after the occurrence of the actions or events that form the basis for the complaint, including the actions or events that form the basis for the Complainant's belief that a violation is about to occur, or, if later, within thirty (30) days after the Complainant knew or, with the exercise of reasonable diligence, should have known of those actions or events.

C. Copy for Respondent.

The Complainant shall mail or deliver a copy of the complaint to each Respondent.

§ 404 Processing a Complaint

A. Consolidation.

The State Board may consolidate complaints if they relate to the same actions or events, or if they raise common questions of law or fact.

B. Record.

(1) The State Board shall compile and maintain an official record in connection with each complaint filed in accordance with §§ 402 and 403 of this rule.

(2) The official record shall contain:

a) A copy of the complaint, including any amendments made with the permission of the State Board;

b) A copy of any written submission by the Complainant;

c) A copy of any written response by any Respondent or other interested person;

d) A written report of any investigation conducted by members or employees of the State Board or of any local board of election commissioners, who may not be directly involved in the actions or events complained of and may not directly supervise or be directly supervised by any Respondent;

e) Copies of all notices and correspondence to or from the State Board in connection with the complaint;

f) Originals or copies of any tangible evidence produced at any hearing conducted under § C of this rule;

g) The original tape recording produced at any hearing conducted under § C of this rule, and a copy of any transcript obtained by the State Board, any local board of election commissioners, or other party; and

h) A copy of any final determination made by the State Board under § D or § E of this rule.

C. Hearing

(1) At the request of the Complainant, there shall be a hearing on the record.

(2) The Complainant must submit within thirty (30) days of filing the complaint, a written request for a hearing.

(3) The hearing shall be conducted no later than sixty (60) days after the State Board receives the complaint.

(4) The Director of the State Board shall give at least five (5) business days' advance notice of the date, time, and place of the hearing:

a) By mail to the Complainant, each named Respondent, and any other interested person who has asked in writing to be advised of the hearing;

b) By posting in a prominent place, available to the general public, at the office of the State Board.

(5) The Director of the State Board or the Director's designee shall act as hearing officer.

(6) The Complainant, any Respondent, or any other interested member of the public may appear at the hearing and testify or present tangible evidence in connection with the complaint.

a) Each witness shall be sworn.

b) The hearing officer may limit the testimony, if necessary, to ensure that all interested participants are able to present their views.

c) The hearing officer may recess the hearing and reconvene at a later date, time, and place announced publicly at the hearing.

(7) A Complainant, Respondent, or other person who testifies or presents evidence at the hearing may, but need not, be represented by an attorney.

(8) There shall be no right of cross-examination.

a) A person may testify or present evidence to contradict any other testimony or evidence.

b) If a person has already testified or presented evidence at the hearing and wishes to contradict testimony or evidence subsequently presented, that person is not entitled to be heard again, but may make a written presentation to the hearing officer.

(9) The proceedings shall be tape-recorded by the Director of the State Board.

a) The recording shall not be transcribed as a matter of course, but the State Board, a local board of election commissioners, or any party may obtain a transcript at its own expense.

b) If a local board of election commissioners or other party obtains a transcript, the board or party shall file a copy as part of the record, and any other interested person may examine the record copy.

(10) Any party to the proceedings may file a written brief or memorandum within five (5) business days after the conclusion of the hearing. No responsive or reply memoranda will be accepted, except with the specific authorization of the hearing officer.

D. Final Determination

(1) If the complaint is not filed timely or in proper form, the State Board, acting through the Director or the Director's designee, shall dismiss the complaint.

(2) If there has been no hearing under § C of this rule, the Director of the State Board or the Director's designee shall review the record and determine whether, under a preponderance of the evidence standard, a violation of Title III has been established. The determination of the Director or the Director's designee shall be the determination of the State Board.

(3) At the conclusion of any hearing under § C of this rule, the hearing officer shall determine, under a preponderance of the evidence standard, whether a violation of Title III has been established. The determination of the hearing officer shall be the determination of the State Board.

(4) If the Director of the State Board or the Director's designee, whether acting as hearing officer or otherwise, determines that a violation has occurred, the State Board, acting through the Director or Director's designee, shall provide the appropriate remedy.

a) The remedy may include, but is not limited to, a determination directing the Respondent to take specified action with respect to a past or future election.

b) The remedy may not include an award of money damages or attorney's fees.

(5) If the Director of the State Board or the Director's designee, whether acting as hearing officer or otherwise, determines that a violation has not occurred or that there is insufficient evidence to establish a violation, the State Board, acting through the Director or Director's designee, shall dismiss the complaint.

(6) The Director of the State Board or the Director's designee shall explain in a written decision the reasons for the determination and for any remedy selected.

(7) Either the Complainant or the Respondent may appeal the decision of the Director of the State Board or the Director's designee by submitting a written request to the Director within three (3) days of receipt of the decision. The members of the State Board may review the record compiled in connection with the complaint, including the tape recording or any transcript of a hearing and any briefs or memoranda, but shall not receive additional testimony or evidence. In exceptional cases, the State Board may request that the parties present additional briefs or memoranda. The State Board shall issue a written decision affirming, reversing, or modifying the decision being appealed within five (5) days of the State Board's review.

(8) Except as specified in subsection (9) of this section, the final determination shall be issued within ninety (90) days after the complaint was filed, unless the Complainant consents in writing to an extension.

a) The final determination shall be mailed to the Complainant, each Respondent, and any other interested person who has asked in writing to be advised of the final determination.

b) The final determination shall be published on the State Board's website and made available on request to any interested person.

(9) If a final determination is not made within ninety (90) days after the complaint was filed, or within any extension to which the Complainant consents, the complaint shall be referred for final resolution under § E of this rule. The record compiled under § B of this rule shall be made available for use under § E of this rule.

E. Alternate Dispute Resolution

If, for any reason, the Director of the State Board or the Director's designee does not render a final determination within ninety (90) days after the complaint was filed, or within any extension to which the Complainant consents, the complaint shall be resolved under this section.

(1) On or before the fifth business day after a final State Board determination was due, the State Board shall designate in writing to the Complainant the name of an arbitrator to serve on a panel to resolve the complaint.

a) Within three (3) business days after the Complainant receives this designation, the Complainant shall designate in writing to the State Board the name of a second arbitrator.

b) Within three (3) business days after the Complainant's designation, the two (2) arbitrators so designated shall select a third arbitrator to complete the panel.

(2) The arbitrator shall be selected from the certified list published by the Arkansas Alternative Dispute Resolution Commission.

(3) The arbitration panel may review the record compiled in connection with the complaint, including the tape recording or any transcript of a hearing and any briefs or memoranda, but shall not receive additional testimony or evidence. In exceptional cases, the panel may request that the parties present additional briefs or memoranda.

(4) The arbitrators shall determine the appropriate resolution of the complaint by a majority vote.

(5) The arbitration panel must issue a written resolution within sixty (60) days after the final State Board determination was due under § D of this rule.

a) This sixty (60) day period may not be extended.

b) The final resolution of the panel shall be transmitted to the State Board and shall be the final resolution of the complaint.

c) The final resolution shall be mailed to the Complainant, each Respondent, and any other interested person who has asked in writing to be advised of the final resolution.

d) The final resolution shall be published on the State Board's website and made available on request to any interested person.

Colorado

The Colorado Secretary of State developed and implemented a uniform, non-discriminatory administrative complaint system process required under the Help America Vote Act 42 U.S.C. 15301, sec.402 (2002)("HAVA") and as proposed in the State Plan published in the *Federal Register* in March 2004. This process was in place by January 1, 2004, and the State Plan as published in the *Federal Register* should be updated to reflect implementation of the originally proposed plan.

Colorado's administrative complaint process meets the following requirements:

- Procedures are uniform and nondiscriminatory;
- Any person who believes there is a violation of Title III may file a complaint;
- Complaints are to be in writing and notarized, signed and sworn by the person filing the complaint, and may be filed and resolved locally or with the Secretary of State;
- Complaints may be easily tracked by interested parties;
- The state may consolidate complaints;
- At complainant's request, there shall be a hearing on the record;
- The state shall provide an appropriate remedy if it finds a violation has occurred and publish the results;
- If no violation is found, the complaint shall be dismissed and the results published;
- Complaints shall have a final resolution within 90 days of the complaint being filed, unless the complainant consents to a longer period;
- If the complaint cannot be resolved within that period, an alternative dispute resolution procedure must be provided and resolved within 60 days;
- A determination may be appealed by the aggrieved party within 30 days, in state district court;
- Timelines for the filing and disposition/resolution of a complaint follow federal and state laws.

(See §1-1.5-105, 1 Colorado Revised Statutes (2003).)

Help America Vote Act, Title III: Administrative Complaint Procedures

Submission Process:

- The HAVA Title III complaint may be received by the Secretary of State's office or the designated election official's office.
  - Complaints must be filed within one year from the date of the alleged violation or the election, whichever is later.

- The complaint must be in writing and may be submitted on a form designated by the Secretary of State [form attached] or in a letter written by the complainant. The letter shall contain the following:

  a) The complainant's name;
  b) The complainant's full residence address, including county, and mailing address (if different from residence);
  c) A description of the violation alleged with particularity and a reference to the section of Title III of HAVA alleged to have been violated;
  d) A completed, notarized oath signed by the complainant where he or she states that the facts of the complaint are true and correct to the best of his or her knowledge and belief.

- Whenever possible, any completed complaints mailed to the Secretary of State or the designated election official shall be sent in a unique, distinguishable envelope as approved by the Secretary of State. This unique envelope shall be given to the complainant at the same time as the complaint form and instructions.

- Upon receipt of the HAVA complaint, the Secretary of State or designated election official shall note the date received and assign a unique tracking number on the complaint form. The Secretary of State's office shall establish a unique tracking number for its use, and the designated election official shall use the Secretary of State's county ID number for that county, the last two digits of the present year, and a sequence number according to the amount of complaints already received by the county, placing hyphens between groupings of numbers. (For example, the first one received would be the two digit county number-last two digits of the year-03 with 01, 02, 03, etc. numbering any sequential complaints).

- If the complaint is received by the Secretary of State's office, the unique tracking number shall be added to the form and the form shall be faxed to the designated election official in the county where the alleged violation occurred. The complainant shall receive a copy of the submitted complaint with all check-in notations and tracking numbers included.

- If the complaint is received by the designated election official, the county tracking number shall be added to the form and the form shall be faxed to the Secretary of State's office within one business day. The complainant shall receive a copy of the submitted complaint with all check-in notations and tracking numbers included. The original complaint form shall be hand delivered or mailed to the Secretary of State's office, and a copy shall be retained by the designated election official.

- Any original mailed complaints sent by the designated election official and received by the Secretary of State's office shall be sent in a unique, distinguishable mailing envelope as approved by the Secretary of State. This unique envelope will ensure that the complaint is easily recognizable and will be processed in a timely manner.

- If the complaint is received by the designated election official and the original sent to the Secretary of State's office, the Secretary of State's office shall notify the designated election official, either by fax or letter, of the office's unique tracking number when the form is received at the Secretary of State's office. His official notification may be used for documentation purposes.

- The designated election official shall not make any determination as to the validity of the alleged complaint during the submission process, but shall forward all information to the Secretary of State's office. The county may, however, begin researching the alleged violation on the local level once the complaint is received.

- Any information gathered by the designated election official shall be documented with specific details, including the date, and shall be used for reference purposes.

Review Process:

Under the Review Process, the Secretary of State has several options available:

- Local Resolution
- Resolution/Remedy without a hearing
- Dismissal
- Consolidation
- Extension
- Hearing
- Determination
- Alternative Dispute Resolution (ADR)
  - This procedure is required if the Secretary of State does not issue a final determination concerning the complaint within 90 days.
  - An agreement has been made between the Colorado Judicial Office of Dispute Resolution and the Secretary of State to address these ADR requirements.

The Code of Colorado Regulations, 8CCR 1505-3, Rule 1, Declaratory Orders, have been modified and drafted into rules for the HAVA Administrative Complaint Procedure.

Appeal Process:

Within 30 days following the final determination by the Secretary of State, an aggrieved party may appeal the Secretary's determination to the District Court in and for the City and County of Denver.

For Clerical Use Only

Complaint # ___ ___ - ___ ___ - ___ ___ - ___ ___ ___ ___

Date of Filing _____

COMPLAINT

For Alleged Violation of Title III of the
Help America Vote Act of 2002
(42 U.S.C. §15512)

Colorado Secretary of State, HAVA Division
1560 Broadway, Suite 200
Denver, Colorado 80202
Phone: 303.894.2200, ext. 6314
Fax: 303.869.4861

Pursuant to section 1-1.5-105, Colorado Revised Statutes, the Secretary of State has sole jurisdiction to adjudicate alleged violations of Title III of the Help America Vote Act of 2002 (HAVA). Any person who believes that a violation of Title III of HAVA has occurred, is occurring, or is about to occur may file a complaint. In order to initiate the complaint process, a sworn, written, signed and notarized complaint must be filed with the Secretary of State no later than one year from the date of either the occurrence of the alleged violation or of the election giving rise to the complaint, whichever is later. The complaint must allege the violation with particularity, contain a reference to the section of HAVA alleged to have been violated, and the person or entity responsible for the violation.

PERSON BRINGING COMPLAINT

Name _____ Home Phone _____ Work Phone _____
Address _____ County _____
City _____ State _____ Zip Code _____

PERSON OR ENTITY AGAINST WHOM COMPLAINT IS BROUGHT (limit one person/entity per form)

Name _____ Home Phone _____ Work Phone _____
Address _____ County _____
City _____ State _____ Zip Code _____

VIOLATION:

If you believe that a violation of Title III of the Help America Vote Act of 2002 has occurred, is occurring or is about to occur, please state the specific acts committed by the person or entity named in this complaint along with a reference to section of HAVA alleged to have been violated: (If you need more space please attach a seperate sheet)

_____
_____
_____
_____
_____
_____
_____
_____

HAVA/Complaint/appvd/SOS/01/04 1

STATEMENT OF FACTS:

State in your own words the detailed facts and circumstances that form the basis of your complaint, including any relevant person(s). In your narrative explanation, please include relevant dates and times and the names and addresses of other persons whom you believe have knowledge of the facts. Also, give any reasons that you feel the alleged violation was committed by the person and/or entity against whom this complaint is brought.

Check here if additional pages are attached ☐

STATE OF COLORADO
COUNTY OF _____

I, the undersigned, under penalty of perjury, do swear or affirm that the information contained in this complaint is true and correct to the best of my knowledge.

_____
Signature of Complainant

Sworn to and subscribed before me this _____ day of _____, 20____.

_____
Signature of Officer Authorized to Administer Oaths or Notary Public

_____
(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally known_____ or Produced Identification_____
Type of Identification Produced_____

NOTICE: This Complaint is not confidential and, once filed with the Department of State, will be treated as a public record.

Connecticut

House Bill No. 5500

Public Act No. 04-74

AN ACT CONCERNING COMPLIANCE WITH THE FEDERAL HELP AMERICA VOTE ACT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 9-323 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

Any elector or candidate who claims that he is aggrieved by any ruling of any election official in connection with any election for presidential electors and for a senator in Congress and for representative in Congress or any of them, held in his town, or that there was a mistake in the count of the votes cast at such election for candidates for such electors, senator in Congress and representative in Congress, or any of them, at any voting district in his town, or any candidate for such an office who claims that he is aggrieved by a violation of any provision of sections 9-355, 9-357 to 9-361, inclusive, as amended, 9-364, 9-364a or 9-365 in the casting of absentee ballots at such election, may bring his complaint to any judge of the Supreme Court, in which he shall set out the claimed errors of such election official, the claimed errors in the count or the claimed violations of said sections. In any action brought pursuant to the provisions of this section, the complainant shall send a copy of the complaint by first-class mail, or deliver a copy of the complaint by hand, to the State Elections Enforcement Commission. If such complaint is made prior to such election, such judge shall proceed expeditiously to render judgment on the complaint and shall cause notice of the hearing to be given to the Secretary of the State and the State Elections Enforcement Commission. If such complaint is made subsequent to the election, it shall be brought within fourteen days of the election and such judge shall forthwith order a hearing to be had upon such complaint, upon a day not more than five nor less than three days from the making of such order, and shall cause notice of not less than three nor more than five days to be given to any candidate or candidates whose election may be affected by the decision upon such hearing, to such election official, to the Secretary of the State, to the State Elections Enforcement Commission and to any other party or parties whom such judge deems proper parties thereto, of the time and place for the hearing upon such complaint. Such judge, with two other judges of the Supreme Court to be designated by the Chief Court Administrator, shall, on the day fixed for such hearing and without unnecessary delay, proceed to hear the parties. If sufficient reason is shown, such judges may order any voting machines to be unlocked or any ballot boxes to be opened and a recount of the votes cast, including absentee ballots, to be made. Such judges shall thereupon, in the case they, or any two of them, find any error in the rulings of the election official, any mistake in the count of such votes or any violation of said sections, certify the result of their finding or decision, or the finding or decision of a majority of them, to the Secretary of the State before the first Monday after the second Wednesday in December. Such judges may order a new election or a change in the existing election schedule, provided such order complies with Section 302 of the Help America Vote Act, P.L. 107-252, as amended from time to time. Such certificate of such judges, or a majority of them, shall be final upon all questions relating to the rulings of such election officials, to the correctness of such count and, for the purposes of this section only, such claimed violations, and shall operate to correct the returns of the moderators or presiding officers so as to conform to such finding or decision.

Sec. 2. Section 88 of public act 03-6 of the June 30 special session is repealed and the following is substituted in lieu thereof (*Effective from passage*):

Immediately after the close of the polls, the moderator shall seal the provisional ballot depository envelope and deliver such envelope to the registrars of voters of the town. The registrars of voters shall forthwith verify the information contained with each provisional ballot. If the registrars of voters determine that the applicant is eligible to vote, they shall note their decision on the outer envelope of the ballot and open and count the provisional ballot in accordance with the provisions of sections [55 to 61] 83 to 89, inclusive of [this act] public act 03-6 of the June 30 special session* and procedures prescribed by the Secretary of the State. If the registrars of voters are unable to determine that the applicant is eligible to vote or determine that the applicant is not eligible to vote, the applicant's provisional ballot sealed envelope shall be marked "rejected", along with the reason for such rejection, and signed by the registrars of voters. The registrars of voters shall verify and count all provisional ballots in their town not later than six days after the election or primary. The registrars of voters shall forthwith prepare and sign in duplicate a report showing the number of provisional ballots received from electors, the number rejected and the number counted, and showing the additional votes counted for each candidate for federal

office on the provisional ballots. The registrars of voters shall file one report with the town clerk and shall seal one in the depository envelope with the provisional ballots and file such depository envelope with the town clerk. The depository envelope shall be preserved by the town clerk for the period of time required to preserve counted absentee ballots for federal elections. The head moderator shall forthwith file a corrected return for federal offices with the town clerk and the Secretary showing (1) the final votes after any recanvass, pursuant to sections 9-311 to 9-311b, inclusive, the votes on provisional ballots and the totals, and (2) the number of provisional ballots received from electors, the number rejected and the number counted, as reported by the registrars of voters.

Sec. 3. Subsection (a) of section 9-261 of the general statutes, as amended by section 101 of public act 03-6 of the June 30 special session, is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) In each primary, election or referendum, when an elector has entered the polling place, the elector shall announce the elector's street address, if any, and the elector's name to the checkers in a tone sufficiently loud and clear as to enable all the election officials present to hear the same. Each elector who registered to vote by mail for the first time on or after January 1, 2003, and has a "mark" next to the elector's name on the official registry list, as required by section [91] 90 of [this act] public act 03-6 of the June 30 special session, shall present to the checkers, before the elector votes, either a current and valid photo identification that shows the elector's name and address or a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the elector. Each other elector shall (1) present to the checkers the elector's Social Security card or any other preprinted form of identification which shows the elector's name and either the elector's address, signature or photograph, or (2) on a form prescribed by the Secretary of the State, write the elector's residential address and date of birth, print the elector's name and sign a statement under penalty of false statement that the elector is the elector whose name appears on the official checklist. Such form shall clearly state the penalty of false statement. A separate such form shall be used for each elector. If the elector presents a preprinted form of identification under subdivision (1) of this subsection, the checkers shall check the name of such elector on the official checklist. If the elector completes the form under subdivision (2) of this subsection, the assistant registrar of voters shall examine the information on such form and either instruct the checkers to check the name of such elector on the official checklist or notify the elector that the form is incomplete or inaccurate.

Sec. 4. Section 9-7b of the general statutes, as amended by section 2 of public act 03-223 and sections 53 and 65 of public act 03-241, is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) The State Elections Enforcement Commission shall have the following duties and powers:

(1) To make investigations on its own initiative or with respect to statements filed with the commission by the Secretary of the State or any town clerk, or upon written complaint under oath by any individual, with respect to alleged violations of any provision of the general statutes relating to any election or referendum, any primary held pursuant to section 9-423, as amended, 9-425 or 9-464 or any primary held pursuant to a special act, and to hold hearings when the commission deems necessary to investigate violations of any provisions of the general statutes relating to any such election, primary or referendum, and for the purpose of such hearings the commission may administer oaths, examine witnesses and receive oral and documentary evidence, and shall have the power to subpoena witnesses under procedural rules the commission shall adopt, to compel their attendance and to require the production for examination of any books and papers which the commission deems relevant to any matter under investigation or in question. In connection with its investigation of any alleged violation of any provision of chapter 145, or of any provision of section 9-359 or section 9-359a, the commission shall also have the power to subpoena any municipal clerk and to require the production for examination of any absentee ballot, inner and outer envelope from which any such ballot has been removed, depository envelope containing any such ballot or inner or outer envelope as provided in sections 9-150a, as amended, and 9-150b and any other record, form or document as provided in section 9-150b, in connection with the election, primary or referendum to which the investigation relates. In case of a refusal to comply with any subpoena issued pursuant to this subsection or to testify with respect to any matter upon which that person may be lawfully interrogated, the superior court for the judicial district of Hartford, on application of the commission, may issue an order requiring such person to comply with such subpoena and to testify; failure to obey any such order of the court may be punished by the court as a contempt thereof. In any matter under investigation which concerns the operation or inspection of or outcome recorded on any voting machine, the commission may issue an order to the municipal clerk to impound such machine until the investigation is completed;

(2) To levy a civil penalty not to exceed (A) two thousand dollars per offense against any person the commission finds to be in violation of any provision of chapter 145, part V of chapter 146, part I of chapter 147, chapter 148, section 9-12, as amended, subsection (a) of section 9-17, section 9-19b, 9-19e, 9-19g, 9-19h, 9-

19i, 9-20, 9-21, 9-23a, 9-23g, as amended, 9-23h, as amended, 9-23j to 9-23o, inclusive, 9-26, 9-31a, 9-32, 9-35, as amended, 9-35b, 9-35c, 9-40a, 9-42, as amended, 9-43, 9-50a, 9-56, 9-59, 9-168d, 9-170, 9-171, 9-172, 9-409, as amended, 9-410, as amended, 9-412, as amended, 9-436, as amended, 9-436a, 9-453e to 9-453h, inclusive, as amended, 9-453k, as amended, 9-453o, as amended, [or] sections 1 to 3, inclusive, of [this act] public act 03-241 or sections 83 to 90, inclusive, of public act 03-6 of the June 30 special session, or (B) two thousand dollars per offense or twice the amount of any improper payment or contribution, whichever is greater, against any person the commission finds to be in violation of any provision of chapter 150. The commission may levy a civil penalty against any person under subparagraph (A) or (B) of this subdivision only after giving the person an opportunity to be heard at a hearing conducted in accordance with sections 4-176e to 4-184, inclusive. In the case of failure to pay any such penalty levied pursuant to this subsection within thirty days of written notice sent by certified or registered mail to such person, the superior court for the judicial district of Hartford, on application of the commission, may issue an order requiring such person to pay the penalty imposed and such court costs, state marshal's fees and attorney's fees incurred by the commission as the court may determine. Any civil penalties paid, collected or recovered under subparagraph (B) of this subdivision for a violation of any provision of chapter 150 applying to the office of the Treasurer shall be deposited on a pro rata basis in any trust funds, as defined in section 3-13c, affected by such violation;

(3) (A) To issue an order requiring any person the commission finds to have received any contribution or payment which is prohibited by any of the provisions of chapter 150, after an opportunity to be heard at a hearing conducted in accordance with the provisions of sections 4-176e to 4-184, inclusive, to return such contribution or payment to the donor or payor, or to remit such contribution or payment to the state for deposit in the General Fund, whichever is deemed necessary to effectuate the purposes of chapter 150;

(B) To issue an order when the commission finds that an intentional violation of any provision of chapter 150 has been committed, after an opportunity to be heard at a hearing conducted in accordance with sections 4-176e to 4-184, inclusive, which order may contain one or more of the following sanctions: (i) Removal of a campaign treasurer, deputy campaign treasurer or solicitor; (ii) prohibition on serving as a campaign treasurer, deputy campaign treasurer or solicitor, for a period not to exceed four years; and (iii) in the case of a party committee or a political committee, suspension of all political activities, including, but not limited to, the receipt of contributions and the making of expenditures, provided the commission may not order such a suspension unless the commission has previously ordered the removal of the campaign treasurer and notifies the officers of the committee that the commission is considering such suspension;

(C) To issue an order revoking any person's eligibility to be appointed or serve as an election, primary or referendum official or unofficial checker or in any capacity at the polls on the day of an election, primary or referendum, when the commission finds such person has intentionally violated any provision of the general statutes relating to the conduct of an election, primary or referendum, after an opportunity to be heard at a hearing conducted in accordance with sections 4-176e to 4-184, inclusive;

(D) To issue an order to enforce the provisions of the Help America Vote Act, P.L. 107-252, as amended from time to time, as the commission deems appropriate;

(4) To inspect or audit at any reasonable time and upon reasonable notice the accounts or records of any campaign treasurer or principal campaign treasurer, as required by chapter 150 and to audit any such election, primary or referendum held within the state; provided, (A) (i) not later than two months preceding the day of an election at which a candidate is seeking election, the commission shall complete any audit it has initiated in the absence of a complaint that involves a committee of the same candidate from a previous election, and (ii) during the two-month period preceding the day of an election at which a candidate is seeking election, the commission shall not initiate an audit in the absence of a complaint that involves a committee of the same candidate from a previous election, and (B) the commission shall not audit any caucus, as defined in subdivision (1) of section 9-372, as amended;

(5) To attempt to secure voluntary compliance, by informal methods of conference, conciliation and persuasion, with any provision of chapters 149 to 153, inclusive, or any other provision of the general statutes relating to any such election, primary or referendum;

(6) To consult with the Secretary of the State, the Chief State's Attorney or the Attorney General on any matter which the commission deems appropriate;

(7) To refer to the Chief State's Attorney evidence bearing upon violation of any provision of chapters 149 to 153, inclusive, or any other provision of the general statutes pertaining to or relating to any such election, primary or referendum;

(8) To refer to the Attorney General evidence for injunctive relief and any other ancillary equitable relief in the circumstances of subdivision (7) of this [section] subsection. Nothing in this subdivision shall preclude a person who claims that

he is aggrieved by a violation of any provision of chapter 152 or any other provision of the general statutes relating to referenda from pursuing injunctive and any other ancillary equitable relief directly from the Superior Court by the filing of a complaint;

(9) To refer to the Attorney General evidence pertaining to any ruling which the commission finds to be in error made by election officials in connection with any election, primary or referendum. Those remedies and procedures available to parties claiming to be aggrieved under the provisions of sections 9-323, as amended by this act, 9-324, 9-328 and 9-329a, as amended, shall apply to any complaint brought by the Attorney General as a result of the provisions of this subdivision;

(10) To consult with the United States Department of Justice and the United States Attorney for Connecticut on any investigation pertaining to a violation of this section, section 9-12, as amended, subsection (a) of section 9-17 or section 9-19b, 9-19e, 9-19g, 9-19h, 9-19i, 9-20, 9-21, 9-23a, 9-23g, as amended, 9-23h, as amended, 9-23j to 9-23o, inclusive, 9-26, 9-31a, 9-32, 9-35, as amended, 9-35b, 9-35c, 9-40a, 9-42, as amended, 9-43, 9-50a, 9-56 or 9-59 and to refer to said department and attorney evidence bearing upon any such violation for prosecution under the provisions of the National Voter Registration Act of 1993, P. L. 103-31, as amended from time to time;

(11) To inspect reports filed with the Secretary of the State and with town clerks pursuant to chapter 150 and refer to the Chief State's Attorney evidence bearing upon any violation of law therein if such violation was committed knowingly and wilfully;

(12) To intervene in any action brought pursuant to the provisions of sections 9-323, as amended by this act, 9-324, 9-328 and 9-329a, as amended, upon application to the court in which such action is brought when in the opinion of the court it is necessary to preserve evidence of possible criminal violation of the election laws;

(13) To adopt and publish regulations pursuant to chapter 54 to carry out the provisions of section 9-7a, this section and chapter 150; to issue upon request and publish advisory opinions in the Connecticut Law Journal upon the requirements of chapter 150, and to make recommendations to the General Assembly concerning suggested revisions of the election laws;

(14) To the extent that the Elections Enforcement Commission is involved in the investigation of alleged or suspected criminal violations of any provision of the general statutes pertaining to or relating to any such election, primary or referendum and is engaged in such investigation for the purpose of presenting evidence to the Chief State's Attorney, the Elections Enforcement Commission shall be deemed a law enforcement agency for purposes of subdivision (3) of subsection (b) of section 1-210, as amended, provided nothing in this section shall be construed to exempt the Elections Enforcement Commission in any other respect from the requirements of the Freedom of Information Act, as defined in section 1-200;

(15) To enter into such contractual agreements as may be necessary for the discharge of its duties, within the limits of its appropriated funds and in accordance with established procedures; [and]

(16) To provide the Secretary of the State with notice and copies of all decisions rendered by the commission in contested cases, advisory opinions and declaratory judgments, at the time such decisions, judgments and opinions are made or issued;

(17) To receive and determine complaints filed under the Help America Vote Act, P.L. 107-252, as amended from time to time, by any person who believes there is a violation of any provision of Title III of P.L. 107-252, as amended. Any complaint filed under this subdivision shall be in writing, notarized and signed and sworn by the person filing the complaint. At the request of the complainant, there shall be a hearing on the record, conducted in accordance with sections 4-167e to 4-184, inclusive. The commission shall make a final determination with respect to a complaint prior to the expiration of the ninety-day period beginning on the date the complaint is filed, unless the complainant consents to a longer period for making such determination. If the commission fails to meet the applicable deadline under this subdivision with respect to a complaint, the commission shall resolve the complaint within sixty days after the expiration of such ninety-day period under an alternative dispute resolution procedure established by the commission.

(b) In the case of a refusal to comply with an order of the commission issued pursuant to subdivision (3) of subsection (a) of this section, the superior court for the judicial district of Hartford, on application of the commission, may issue a further order to comply. Failure to obey such further order may be punished by the court as a contempt thereof.

Approved May 10, 2004

DISTRICT OF COLUMBIA
BOARD OF ELECTIONS AND ETHICS

NOTICE OF FINAL RULEMAKING

The District of Columbia Board of Elections and Ethics hereby gives notice of final rulemaking action to adopt the following amendments to 3 DCMR Chapter 4, "Hearings," 3 DCMR Chapter 5, "Voter Registration," and 3 DCMR Chapter 7, "Election Procedures."

The District of Columbia Board of Elections and Ethics took final action to adopt the following amendments to 3 DCMR Chapters 4, 5, and 7 at a special board meeting which was held on Wednesday, December 17, 2003. The amendments will alter the Board's administrative complaint procedures so as to accommodate complaints which allege violations of Title III of the Help America Vote Act of 2002 ("the Act"); situate in the Board's regulations the circumstances specified in the Act which would require an individual to vote by special ballot, as well as the procedures by which to appeal the Board's special ballot determinations; outline new voter registration requirements as set forth in the Act, and other purposes.

No comments were received, and no changes were made to the text of the proposed rules as published in the Notice of Proposed Rulemaking (50 DCR 9581, November 14, 2003).

Amend Section 400 by deleting Subsection 400.1 in its entirety and substituting the following in its place:

400.1 The provisions of this chapter shall govern the procedures of the Board in all cases involving petition challenges; alleged violations of the District of Columbia Election Act, as amended; alleged violations of the District of Columbia Campaign Finance Reform and Conflict of Interest Act, as amended; alleged violations of Title III of the Help America Vote Act of 2002; and petitions requesting the promulgation, amendment, or repeal of any regulation of the Board.

Amend Section 408 by:

1) Deleting Subsection 408.1 in its entirety and substituting the following in its place:

"408.1 An action before the Board shall be commenced by the filing of a written complaint which shall be signed and sworn by the complainant and notarized."

2) Adding a new Subsection 408.6 to read follows:

"408.6 The Board may consolidate complaints alleging violations of Title III of the Help America Vote Act of 2002 if they relate to the same actions or events or raise common questions of law or fact."

Amend Section 428 by adding the following subsections:

428.6 If the Board determines that there is a violation of any provision of Title III of the Help America Vote Act of 2002, the Board shall provide the appropriate remedy.

428.7 If the Board determines that there is no violation of Title III of the Help America Vote Act of 2002, the Board shall dismiss the complaint and publish the results of the hearing on the Board's website.

428.8 The Board shall render final determinations with respect to complaints alleging violations of Title III of the Help America Vote Act of 2002 prior to the expiration of the 90-day period which begins on the date the complaint is filed, unless the complainant consents to a longer period for making such a determination.

428.9 If the Board fails to meet the deadline applicable under Subsection 428.8, the complaint shall be resolved within 60 days under alternative dispute resolution procedures established pursuant to Section 431 of this chapter. The record and other materials from any proceedings conducted under standard Board complaint procedures shall be made available for use under the alternative dispute resolution procedures.

Add a new Section 432 to read as follows:

"432 ALTERNATIVE DISPUTE RESOLUTION PROCEDURES FOR HELP AMERICA VOTE ACT COMPLAINTS

432.1 On or before the 5th business day after a final Board determination with respect to a Help America Vote Act Title III complaint is due, the respondent shall designate in writing to the complainant the name of an arbitrator to serve on a panel to resolve the complaint.

432.2 Within 3 business days after the complainant receives the designation of an arbitrator, the complainant shall designate in writing to the respondent the name of a second arbitrator.

432.3 Within 3 business days after the complainant's designation of a second arbitrator, the two arbitrators designated shall select a third arbitrator to complete the panel.

432.4 The arbitration panel may review the record compiled in connection with the complaint, including the tape recording or any transcript of a hearing

and any briefs or memoranda, but may not receive additional testimony or evidence. In exceptional cases, however, the panel may request that the parties present additional briefs or memoranda.

432.5 The arbitrators shall determine the appropriate resolution of the complaint by a majority vote, and issue a written resolution within 60 days after the final Board determination was due under Subsection 428.8 of this chapter. The 60-day period may not be extended.

432.6 The final resolution of the panel shall be published on the Board's website, and mailed to the complainant, each respondent, and any other interested person who has asked in writing to be advised of the final resolution.

432.7 The final resolution of the arbitration panel is the final resolution of the complaint."

Amend Section 500 by:

1) Deleting the word "and" at the end of Paragraph 500.4(d);

2) Deleting the phrase "May provide applicant's political party affiliation, if any." in Paragraph 500.4(e) And replacing it with the phrase, "Applicant's political party affiliation, if any (optional); and";

3) Adding the following Paragraph to Subsection 500.4:

"(f) Applicant's driver's license number in the case of an applicant who has been issued a current and valid driver's license, or the last 4 digits of the applicant's social security number in the case of an applicant who has not. If an applicant for voter registration has not been issued a current and valid driver's license or a social security number, the Board shall assign the applicant a unique identifier which shall serve to identify the applicant for voter registration purposes."; and;

4) Deleting Subsection 500.8 in its entirety and substituting the following Subsection in its place:

"500.8 If an applicant for voter registration fails to properly complete the mail voter registration form, the Board's registrar shall notify the applicant of the failure and provide the applicant with an opportunity to complete the form in a timely manner to allow for the completion of the registration form prior to the next election."

Amend Section 510 by adding new subsections to read as follows:

"510.9 Individuals who have not previously voted in a federal election in the District and who register to vote by mail shall present, either at the time of registration, at the polling place, or when voting by mail, either a copy of a current and valid photo identification, a copy of a current utility bill, bank statement, government check, paycheck, or other document that shows the name and address of the voter.

510.10 Subsection 510.9 shall not apply to:

(a) Individuals whose registration application includes either a driver's license number or at least the last 4 digits of his or her social security number, and with respect to whom the Board has been able to match the provided information with an existing identification record bearing the same number, name, and date of birth as provided in such registration application; and

(b) Individuals entitled to vote otherwise than in person under Federal law."

Amend Section 703 by:

1) Deleting the final period in Subsection 703.1 and inserting in its place the phrase, "except in instances when the time established for closing the polls is extended pursuant to a Federal or District of Columbia court order or any other order.";

2) Deleting the phrase, "at 8:00 p.m." in Subsection 703.2 and inserting the phrase "at the close of polls" in its place, and;

3) Deleting the phrase, "At 8:00 p.m." in Subsection 703.3 and inserting the phrase "At the close of polls" in its place.

Amend Subsection 710.4 by:

1) Amending Subsection 710.4 by inserting the phrase ", or provisional ballot, as it is termed in the "Help America Vote Act of 2002" (Public Law 107-252)," between the words "ballot," and "because";

2) Deleting the word "or" at the end of Paragraph 710.4(h);

3) Deleting the period (".") at the end of Paragraph 710.4(i) and replacing it with a semi-colon (";"), and;

4) Adding the following paragraphs:

(j) Votes in an election for Federal office as a result of a Federal or District of Columbia court order or any other order extending the time established for

closing the polls by a District law in effect 10 days before the date of that election; or

(k) Has not previously voted in a Federal election in the District and who registers to vote by mail and fails to present, either at the time of registration, at the polling place, or when voting by mail, either a copy of a current and valid photo identification, a copy of a current utility bill, bank statement, government check, paycheck, or other document that shows his or her name and address.

Amend Section 722 by:

1) Deleting Subsection 722.2 in its entirety and substituting the following in its place:

"722.2: At the time of voting, the Board shall provide the voter with written notice that indicates the manner by which he or she may learn whether the Board has decided to count or reject the voter's special ballot, and of the dates scheduled for hearings for voters whose special ballots are rejected to contest the Board's preliminary determination if they petition to do so.";

2) Deleting current Subsections 722.4 through 722.6 in their entirety, and;

3) Adding new Subsections 722.4 through 722.7 to read as follows:

"722.4 Not earlier than eight (8) days and not later than ten (10) days after the date of any election, the Board shall, upon petition of the voter, conduct a hearing for the voter to contest the Board's preliminary determination to reject the voter's special ballot.

722.5 At the hearing, the voter may appear and give testimony on the question of the decision to reject the special ballot.

722.6 The Board shall make a final determination to either count or reject the voter's special ballot within two (2) days after the date of the hearing.

722.7 The voter may appeal an adverse decision of the Board to the Superior Court of the District of Columbia within three (3) days after the date of the Board's decision. The decision of the court shall be final and not appealable."

Georgia

590-8-2-.01. Administrative Complaint Procedure for Violations of Title III of the Help America Vote Act of 2002.

(1) Any person who believes that a violation of any provision of Title III of the Help America Vote Act of 2002 (Public Law 107-252; 42 U.S.C. 15301, et seq.) has occurred, is occurring, or is about to occur may file a complaint with the Secretary of State. Such complaint shall be open to inspection by the public during business hours upon reasonable notice.

(2) Such complaint shall be in writing and shall be signed and sworn to by the person making the complaint and shall be properly notarized in accordance with state law. The complaint shall be delivered to and served upon the Secretary of State as the chief state election official in person, by U.S. Mail, or by guaranteed overnight delivery.

(3) The Secretary of State shall investigate the allegations of such complaint. If more than one complaint is filed concerning the same alleged violation, the Secretary of State may consolidate such complaints for investigation.

(4) If the complainant requests, the Secretary of State or a designee thereof shall conduct a hearing on the allegations of the complaint. Such hearing may be by telephone, conference call, or in person and shall be recorded.

(5) If the Secretary of State or a designee thereof determines that such complaint is unfounded, the Secretary of State may dismiss the complaint and notify the complainant of her decision. The Secretary of State shall make the results of her investigation into the complaint available for public inspection during normal business hours upon reasonable notice after the matter has been resolved

(6) The Secretary of State or designee thereof shall make a determination of the validity of the complaint within 90 days following the date on which the complaint is received by and filed with the Secretary of State unless the complainant agrees to an extension of such time period.

(7) If the Secretary of State or designee thereof determines that such complaint is valid, the Secretary of State shall take all necessary

and appropriate actions within her authority to address the violation; and

(8) If the Secretary of State or designee thereof does not render a final determination on a complaint filed pursuant to this rule within 90 days after the complaint is filed, or within any extension period to which the complainant has agreed, the Secretary of State or designee thereof will, on or before the third business day after the final determination was due to be issued, initiate proceedings for alternative dispute resolution;

(a) To facilitate alternative dispute resolution, the Secretary of State shall maintain a list of qualified independent professionals who are capable of acting as a mediator, from which the Secretary of State or designee thereof and the complainant shall each choose one mediator to review the case.

(b) The Secretary of State or designee thereof shall designate in writing to the complainant the name of a mediator from the list referenced in section (a) to serve on an alternative dispute resolution panel (resolution panel) to review the complaint.

1. If proceedings for alternative dispute resolution are initiated pursuant to this paragraph, not later than 3 business days after the complainant receives such a designation from the Secretary of State or designee thereof, the complainant shall designate in writing to the Secretary of State or designee thereof the name of a second mediator. If the complainant fails to designate a mediator within the time allowed above, the sole mediator shall review the record from the hearing and make a final recommendation based on the submitted record. Not later than 3 business days after such a designation by the complainant, the two mediators so designated shall select a third mediator to complete the resolution panel. If the complainant fails to designate a mediator within the time allowed above, the sole mediator shall review and dispose of the matter without selecting a second or third mediator.

2. The mediator or resolution panel may review the record compiled in connection with the complaint, including, without limitation, the investigative file on the matter, the audio recording of the hearing, any transcript of the hearing and any briefs or memoranda submitted by the parties but shall not receive any additional testimony or evidence to resolve the matter.

3. The mediator or resolution panel by a majority vote, shall after reviewing the record referenced above, provide a recommendation to the Secretary of State not later than 50 days after the final determination of the Secretary of State was due. This period for issuing a written recommendation will not be extended.

4. Upon receipt of the recommendation from the mediator or resolution panel, the Secretary of State or designee thereof shall issue a final order pursuant to the authority granted under O.C.G.A. 21-2-50.2(c), but such remedy shall not exceed the remedies available under Title III of the Help America Vote Act of 2002.

5. The final order of the Secretary of State or designee thereof will be:
(a) Mailed to the complainant, each respondent and any other person who requested in writing to be advised of the final resolution;
(b) Posted on the website of the Secretary of State; and
(c) Made available by the Secretary of State, upon request by any interested person.

6. A final determination by the Secretary of State or designee thereof is not subject to appeal in any state or federal court.
Authority O.C.G.A. §§ 21-2-1; 21-2-50.2.

GUAM ELECTION COMMISSION

Kumision Ileksion Guåhan

P.O. Box BG • Hagåtña, Guam 96932

Tel: (671) 477-9791/2 • Fax: (671) 477-1895

E-Mail: gec@ite.net Website: www.guamelection.org

GUAM ELECTION COMMISSION
ADMINISTRATIVE COMPLAINT PROCEDURE

AN ACT TO *ADD* § 9154 TO TITLE 3 OF THE GUAM CODE ANNOTATED, RELATIVE TO ADMINISTRATIVE COMPLAINT PROCEDURES.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Section 9154 is hereby *added* to Chapter 9 of Title 3 of the Guam Code Annotated to read as follows:

"Section 9154. Administrative Complaint Procedures.

(a) Scope. These provisions provide a uniform, nondiscriminatory procedure for resolving any complaint alleging a violation of any provision of Title III of the Help America Vote Act of 2002 ("HAVA"), including a violation that has occurred, is occurring, or is about to occur. This procedure does not apply to alleged violations of Guam or federal law not involving Title III. Any writing received by the Guam Election Commission that does not appear to involve an alleged violation of Title III shall be referred to appropriate persons or agencies for processing.

(b) Definitions.

(1) "Complainant" means the person who files a complaint with the Guam Election Commission under these provisions.

(2) "Person" shall be any individual residing in Guam, at the time the complaint is filed.

(3) "Respondent" means any Guam Election Official or local election official, or any other person or entity, whose action or actions are alleged, in a complaint under these provisions, to have violated, are violating, or are about to violate Title III.

(4) "Title III" means Title III of the Help America Vote Act of 2002, Public Law 107-252, 116 Stat. 1666 (2002), codified at 42 United States Code Â§Â§15481-15485.

(c) Who May File. Any person who believes that there has been a violation, there is a violation, or a violation is about to occur of any provision of Title III may file a complaint.

(d) Form of Complaint.

(1) Writing and Notarization. As required by HAVA, a complaint shall be in writing and notarized, signed and sworn by the Complainant.

(2) What to File.

a. The Complainant may use the form prescribed by the Guam Election Commission, which will be available from the Guam Election Commission, from local election officials, or which may be downloaded from the Guam Election Commission's website or made interactive on the Guam Election Commission's website. Alternatively, the

Complainant may use any other writing containing the information solicited by the prescribed form.

b. The form prescribed by the Guam Election Commission shall be available in versions translated into all languages applicable, pursuant to Section 203 of the Voting Rights Act, to any jurisdiction in Guam.

c. The Guam Election Commission shall consult with an advisory committee, appointed for such purpose, on ways to ensure that the complaint procedure is accessible to persons with disabilities.

(e) Place and Time for Filing.

(1) Where to File. A complaint shall be sent to: Guam Election Commission, P.O. Box BG, Hagatna, Guam 96932, or delivered in person to the Office of the Guam Election Commission, Suite 200, GCIC Building, 414 W. Soledad Avenue, Hagatna, Guam 96910.

(2) When to File. A complaint shall be filed within 60 days after the occurrence of the actions or events that form the basis for the complaint, or within 90 days after the Complainant becomes aware of the actions or events, whichever is later.

(f) Processing of Complaint.

(1) Consolidation. The Guam Election Commission may consolidate complaints if they relate to the same actions or events, or if they raise common questions of law or fact.

(2) Notice to Respondents. The Guam Election Commission, at a time which it deems appropriate, but in any case prior to making any determination regarding the complaint, shall notify all Respondents of the allegations made in the complaint. This subsection shall not apply if the Guam Election Commission has reason to believe that notifying a respondent or respondents of the complaint filed might compromise a criminal investigation or prosecution or other enforcement action by any local, state or federal agency.

(3) Record.

a. The Guam Election Commission shall compile and maintain an official record in connection with each complaint filed pursuant to these provisions.

b. The official record shall contain:

1. A copy of the complaint, including any amendments;

2. A copy of any written submission by the Complainant;

3. A copy of any written response by any Respondent or other interested person;

4. A written report of any investigation conducted by agents of the Guam Election Commission or of any local election official, who may not be directly involved in the actions or events complained of;

5. Copies of all notices and correspondence to or from the Guam Election Commission in connection with the complaint;

6. Originals or copies of any tangible evidence produced at any hearing conducted under subsection 9154(f)(4) of this section;

7. The original tape recording produced at any oral hearing conducted under subsection 9154(f)(4) of this section, and a copy of any transcript produced; and

8. A copy of any final determination made under subsection 9154(f)(5) of this section.

(4) Hearing.

a. At the request of the Complainant, the Guam Election Commission shall conduct a hearing on the record. This hearing may be oral, at the discretion of the Guam Election Commission, but otherwise it shall be based on:

1. All writings and tangible evidence received under subsection 9154(f)(3).

2. The hearing shall be conducted no sooner than 10 days and no later than 60 days after the Guam Election Commission receives the complaint.

3. The Guam Election Commission may designate the Executive Director or any other qualified person to act as the hearing officer.

(5) Final Determination.

a. The Guam Election Commission's designated hearing officer shall review the record, including the record of any hearing conducted, and determine whether, under a preponderance of the evidence standard, a violation of Title III has been established.

b. Form of Determination.

1. If the Guam Election Commission or its designated hearing officer determines that a violation of Title III has occurred, the Guam Election Commission shall provide an appropriate remedy if an appropriate remedy is available. No remedy may involve the awarding of compensatory or punitive monetary damages to a Complainant.

2. If the Guam Election Commission or its designated hearing officer determines that violation of Title III has not occurred or that there is insufficient evidence to establish a violation of Title III, the Guam Election Commission shall dismiss the complaint.

c. The Guam Election Commission or its designated hearing officer shall explain in a written decision the reasons for the determination and for any remedy selected.

d. Except as specified in subsection 9154(f)(5)e of this section, the final determination of the Guam Election Commission shall be issued within 90 days after the complaint was filed, unless the Complainant consents in writing to an extension. The final determination shall be mailed to the Complainant, each Respondent, and any other interested person who has asked in writing to be advised of the final determination. It shall also be published on the Guam Election Commission website and made available on request to any interested person. However, no mailing,

publication or other providing of the determination or remedy shall be required if the Guam Election Commission has reason to believe that such mailing, publication or providing might compromise a criminal investigation or prosecution or other enforcement action by any local, state or federal agency.

e. If the Guam Election Commission cannot make or has not made a final determination within 90 days after the complaint was filed, or within any extension to which the Complainant consents, the complaint shall be referred for final resolution under subsection 9154(f)(6) of this section. The record compiled under subsection 9154(f)(3) of this section shall be made available for use under subsection 9154(f)(6).

(6) Alternate Dispute Resolution.

a. If, for any reason, the Guam Election Commission or its designated hearing officer does not render a final determination within 90 days after the complaint was filed, or within any extension to which the Complainant consents, the complaint shall be resolved under this subsection.

b. On or before the 5th business day after a final Guam Election Commission determination was due, the Guam Election Commission shall designate in writing a Hearing Officer who shall be a neutral party not associated with the Complainant or any respondent.

c. The Hearing Officer may review the record compiled in connection with the complaint, but need not receive additional testimony or evidence. The Hearing Officer may request that the parties present additional briefs, memoranda, or oral testimony.

d. The Hearing Officer shall determine the appropriate resolution of the complaint. No resolution may involve the awarding of compensatory or punitive monetary damages to a Complainant.

e. The Hearing Officer must issue a written resolution within 60 days after the final Guam Election Commission determination was due under subsection 9154(f)(5) of this section. This 60-day period may not be extended without the express consent of the Complainant. The final resolution shall be transmitted by the Hearing Officer to the Guam Election Commission and shall be the final resolution of the complaint. The final resolution shall be mailed by the Guam Election Commission to the Complainant, each Respondent, and any other interested person who has asked in writing to be advised of the final resolution. It shall also be published on the Guam Election Commission website and made available on request to any interested person. However, no mailing, publication or other providing of the determination or remedy shall be required if the Guam Election Commission has reason to believe that such mailing, publication or providing might compromise a criminal investigation or prosecution or other enforcement action by any local, state or federal agency.

(g) Effective Date. This complaint procedure shall be effective upon its posting on the Guam Election Commission's website and shall remain in effect until superceded by any modification, repeal, regulation or statute.

GUAM ELECTION COMMISSION

Kumision Ileksion Guåhan
P.O. Box BG • Hagåtña, Guam 96932
Tel: (671) 477-9791/2 • Fax: (671) 477-1895
E-Mail: gec@ite.net Website: www.guamelection.org

Administrative Complaint Form

Please Type or Print all of the information on this form.

Section 1 – Your Personal Information

Last name: _____ First Name: _____ M.I.: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Day Phone: _____ Evening Phone: _____ Fax No: _____

Section 2 – Subject of your Complaint

Your complaint may be a Guam or Federal law violation. Common complaints are listed below. Please check off the subject of your complaint and explain in detail in Section 3 on the reverse side.

Guam Law Violations

- ☐ I was not allowed to vote in private.
- ☐ I was not allowed to turn in my absentee ballot.
- ☐ I was not allowed to ask questions or ask for assistance.
- ☐ I was not allowed to vote, even though I was standing in line before the polls closed.
- ☐ I was not able to vote because I was not given assistance to accommodate my disability.
- ☐ I was not able to vote because I was not given assistance in my own language.
- ☐ I was not provided election materials in my own language.
- ☐ My voter registration information was altered.
- ☐ I did not observe a sample ballot at the polls.
- ☐ I observed the casting of a fraudulent vote.
- ☐ My polling place was not open on time, or not at all.
- ☐ I observed pollworkers acting or saying something discriminatory.
- ☐ I observed inappropriate electioneering or campaigning too close to the polls.
- ☐ I was not allowed to re-vote after I made a mistake.
- ☐ I observed precinct officials neglecting to perform their duties.
- ☐ Other Guam Law violation: _____

Federal Law Violations

Note: All allegations of Federal law violations must be notarized (see reverse side). The Help America Vote Act (P.L. 107-252) allows individuals to file a complaint if a violation has occurred, is occurring, or is about to occur.

- ☐ I was not allowed to vote using a provisional ballot.
- ☐ Required voting information was not publicly posted in a polling place on Election Day.
- ☐ Provisions regarding verification of new voter registration were not followed.
- ☐ I was not able to determine whether my provisional ballot was counted.
- ☐ Other Federal Law Violation: _____

Continue on Reverse Side

(Rev 4/05)

Section 3 – Details of the Complaint.

Explain the details of your complaint. Include names (such as names of any witnesses), addresses (including the address of the polling place), dates, and any other information to fully describe what happened. If you need additional space, please attach a separate sheet.

_____

_____

_____

_____

_____

_____

Section 4 – Sign and Attest.

I declare under penalty of perjury under the laws of Guam that the foregoing is true and correct.

Executed on: _____ at: _____
(Date) (City / State or Territory)

Signature of Person Filing Complaint: _____

If your complaint is a Federal Law Violation, a notary public must complete the following certificate of acknowledgment.

CERTIFICATE OF ACKNOWLEDGMENT

_____)
)
Guam) SS
)
_____)

On: _____ before me, _____
(Date) (Name of Notary)

personally appeared _____
(Name of Complainant)

personally known to me, or proved to me on the basis of satisfactory evidence, to be the person whose name is subscribed above and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature the person, or the entity upon behalf of which the person acted, executed this instrument.

WITNESS my hand and official seal.
(Notary Seal)

_____
(Notary Signature)

Return this form to:
Executive Director, Guam Election Commission
414 West Soledad Avenue
Hagatna, Guam 96910

OFFICE OF ELECTIONS
STATE OF HAWAII

STATE ADMINISTRATIVE
COMPLAINT PROCEDURES

How to File a Complaint

A complaint must be in writing and notarized under oath by the person filing the complaint (the "complainant"). A complaint must be filed within 30 days after the occurrence of the actions or events that form the basis for the complaint. For violations that are occurring or about to occur, the complaint should be filed as soon as possible to provide ample time to remedy the problem.

The complainant may file a preliminary complaint on election day with the State Office of Elections. At the time of the call, the Office of Elections or the county clerk shall inform the complainant of the requirements to file an official complaint.

Where To File A Complaint

The complaint must be filed with the Chief Election Officer at:

State Office of Elections
802 Lehua Avenue
Pearl City, Hawaii 96782

Complaints may be consolidated if they relate to the same actions or raise common questions of law or fact.

Hearing and Administrative Determination

A complainant may request that the Chief Election Officer, or a designee, conduct a hearing on the record in writing. The hearing will be conducted not later than 30 days after the Chief Election Officer receives the complaint.

The Chief Election Officer will give at least five days advance notice of the date, time and place of the hearing to the complainant and to each named respondent.

If a hearing is not requested, the Chief Election Officer will review the complaint and make a determination without a hearing.

The Chief Election Officer may request an informal conference of the parties to resolve the complaint.

If the Chief Election Officer determines that a violation has occurred, he will order an appropriate remedy.

The Chief Election Officer will issue a final determination within 90 days after the complaint is filed unless the complainant consents in writing to an extension.

The final determination will be mailed to the complainant and to each respondent and will be posted at the Office of Elections.

If the Chief Election Officer does not issue a final determination within 90 days after the complaint was filed or within any extension to which the complainant consents, the complaint will be referred to an arbitrator for resolution within 60 days.

Idaho

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34.02.02 - RULES GOVERNING COMPLAINT PROCESS UNDER THE HELP AMERICA VOTE ACT

000. LEGAL AUTHORITY.
This chapter is promulgated pursuant to Section 34-216, Idaho Code, and 42 U.S.C. Section 15512. Federal law requires the Secretary of State to establish an administrative complaint procedure to remedy grievances under the Help America Vote Act, 42 U.S.C. Section 15481, et seq. (3-20-04)

001. TITLE AND SCOPE.

01. Title. The rules in this chapter shall be known as IDAPA 34.02.02, "Rules Governing Complaint Process Under the Help America Vote Act," and may be cited as IDAPA 34.02.02. (3-20-04)

02. Scope. This chapter provides a uniform, nondiscriminatory procedure for the resolution of any complaint alleging a violation of any provision of Title III of the Help America Vote Act of 2002, 42 United States Code Sections 15481, et seq., including a violation that has occurred, is occurring, or is about to occur. The procedure set out in this chapter does not apply to an election recount under Sections 34-2301 et seq., Idaho Code, or to an election contest under Sections 34-2001 et seq., and 34-2101 et seq, Idaho Code. A Complainant who wishes to challenge the validity of any primary, general or special election, or to determine the validity of any ballot or vote must seek relief as otherwise provided by law. (3-20-04)

002. WRITTEN INTERPRETATIONS.
Written Interpretations of this chapter are available by mail from the Idaho Secretary of State. (3-20-04)

003. ADMINISTRATIVE APPEALS.
Administrative appeals are not available within the Secretary of State's Office. (3-20-04)

004. INCORPORATION BY REFERENCE.
No documents have been incorporated by reference into this Chapter. (3-20-04)

005. CONTACT INFORMATION.
Office of Secretary of State, 8 a.m. - 5 p.m. Monday through Friday, 700 W. Jefferson, Rm. 203, Boise, Idaho. The mailing address is P.O. Box 83720, Boise, ID 83720-0080. The Election Division telephone number is (208) 334-2852 and the facsimile machine is (208) 334-2282. (3-20-04)

006. PUBLIC RECORDS ACT COMPLIANCE.
This chapter and its contents are subject to the Idaho Public Records Law. (3-20-04)

007. -- 009. (RESERVED).

010. DEFINITIONS.
In this chapter, the following terms have the meanings indicated. (3-20-04)

01. Complainant. Means the person who files a complaint with the Secretary of State under this rule; (3-20-04)

02. Respondent. Means any State or County election official whose actions are asserted, in a complaint under this subtitle, to be in violation of Title III; (3-20-04)

03. Title III. Means Title III of the Help America Vote Act of 2002, Public Law 107-252, 116 Stat. 1666 (2002), codified at 42 United States Code Sections 15481-15485. (3-20-04)

011. WHO MAY FILE.
Any person who believes that there is a violation of any provision of Title III may file a complaint. (3-20-04)

012. FORM OF COMPLAINT.

01. Writing and Notarization. A complaint shall be in writing and notarized, signed and sworn under oath by the Complainant. The complaint must identify the Complainant by name and mailing address. The complaint must identify the section of Title III for which a violation is alleged. The complaint must set out a clear and concise description of the claimed violation that is sufficiently detailed to apprise both the Respondent and the hearing officer or arbitrator of the claimed violation. The complaint procedure is limited to allegations of violations of Title III in a federal election. (3-20-04)

02. Prescribed or Other Form. The Complainant may use: (3-20-04)

a. The form prescribed by the Idaho Secretary of State, which is available from the Idaho Secretary of State Election Division, or which may be downloaded from the Idaho Secretary of State Election Division's website found at www.idsos.state.id.us/elect/eleindex.htm; or (3-20-04)

b. Any other form satisfying the requirements of Subsection 012.02.a. of this rule. (3-20-04)

013. PLACE AND TIME FOR FILING, COPY FOR RESPONDENT.

01. Place for Filing. A complaint shall be filed with the Election Division, along with adequate proof of mailing or delivery of a copy of the complaint to each Respondent. (3-20-04)

02. Time for Filing. A complaint may be filed no later than ninety (90) days after the final certification of the federal election and at issue. A complaint may be filed anytime prior to an election. (3-20-04)

03. Copy for Respondent. The Complainant shall mail or deliver a copy of the complaint to each Respondent. (3-20-04)

04. Rejection of Complaint. The Election Division shall examine each complaint, and may reject it for filing if: (3-20-04)

a. It is not signed and notarized under oath; (3-20-04)

b. It does not identify the Complainant or include an adequate mailing address; (3-20-04)

c. Does not, on its face, allege a violation of Title III with regard to a federal election; or (3-20-04)

d. More than ninety (90) days have elapsed since the final certification of the federal election at issue. (3-20-04)

014. PROCESSING OF COMPLAINT.

01. Consolidation. The Secretary of State may consolidate complaints if they relate to the same actions or events, or if they raise common questions of law or fact. (3-20-04)

02. Preparing the Complaint for Determination. The Secretary of State shall take all necessary steps to prepare the complaint for determination under these rules. In the course of preparing the complaint for determination, the Secretary of State shall allow a party to proceed with the assistance of an English language interpreter if the Complainant is unable to proceed without assistance of an interpreter. It is the responsibility of the party who needs an interpreter to secure the services of the interpreter. The Secretary of State, in coordination with the parties, shall establish a schedule under which the Complainant and Respondent may file written submissions concerning the complaint, and under which the complaint shall be finally determined. (3-20-04)

03. Record. (3-20-04)

a. The Secretary of State shall compile and maintain an official record in connection with each

complaint under this rule; (3-20-04)

b. The official record shall contain: (3-20-04)

i. A copy of the complaint including any amendments made with the permission of the Secretary of State; (3-20-04)

ii. A copy of any written submission by the Complainant; (3-20-04)

iii. A copy of any written response by any Respondent or other interested person; (3-20-04)

iv. A written report of any investigation conducted by employees of the Secretary of State or Office of Attorney General who shall not be directly involved in the actions or events complained of, and shall not directly supervise or be directly supervised by any Respondent; (3-20-04)

v. Copies of all notices and correspondence to or from the Secretary of State in connection with the complaint; (3-20-04)

vi. Originals or copies of any tangible evidence produced at any hearing conducted under Section 015; (3-20-04)

vii. The original tape recording produced at any hearing conducted under Subsection 015.07 of these rules, and a copy of any transcript obtained by any board or other party; and (3-20-04)

viii. A copy of any final determination made under Sections 016 or 017. (3-20-04)

015. HEARING.

01. Hearing on the Record. At the request of the Complainant, the Secretary of State shall conduct a hearing on the record. (3-20-04)

02. Time Frame for Hearing. The hearing shall be conducted no sooner than ten (10) days and no later than thirty (30) days after the Secretary of State receives the complaint. The Secretary of State shall give at least ten (10) business days' advance notice of the date, time, and place of the hearing: (3-20-04)

a. By mail, to the Complainant, each named Respondent, and any other interested person who has asked in writing to be advised of the hearing; (3-20-04)

b. On the Election Division web site; and (3-20-04)

c. By posting in a prominent place, available to the general public, at the offices of the Election Division; (3-20-04)

03. Hearing Officer. The Secretary of State or his designee shall act as hearing officer. (3-20-04)

04. Who May Appear. The Complainant, any Respondent, or any other interested member of the public may appear at the hearing and testify or present tangible evidence in connection with the complaint. Each witness shall be sworn. The hearing officer may limit the testimony, if necessary, to ensure that all interested participants are able to present their views. The hearing officer may recess the hearing and reconvene at a later date, time, and place announced publicly at the hearing. (3-20-04)

05. Representation by an Attorney Not Necessary. A Complainant, Respondent, or other person who testifies or presents evidence at the hearing may, but need not be, represented by an attorney. (3-20-04)

06. Written Presentation. If a person has already testified or presented evidence at the hearing and wishes to contradict testimony or evidence subsequently presented, that person is not entitled to be heard again, but may make a written presentation to the hearing officer. (3-20-04)

07. Tape Recording of Proceedings. The proceedings shall be tape-recorded by and at the expense of the Election Division. The recording shall not be transcribed as a matter of course, but the Election Division, or any party may obtain a transcript at its own expense. If a party obtains a transcript, the party shall file a copy as part of the record, and any other interested person may examine the record copy. (3-20-04)

08. Filing of Written Brief or Memorandum. Any party to the proceedings may file a written brief or memorandum within five (5) business days after the conclusion of the hearing. No responsive or reply memoranda will be accepted except with the specific authorization of the hearing officer. (3-20-04)

016. FINAL DETERMINATION.

01. If No Hearing is Held. If there has been no hearing under Section 015, the Secretary of State or his designee shall review the record and determine whether, under a preponderance of the evidence standard, a violation of Title III has been established. (3-20-04)

02. Determination of Violation. At the conclusion of any hearing under Section 015, the hearing officer shall determine, under a preponderance of the evidence standard, whether a violation of Title III has been established. (3-20-04)

03. Form of Determination. (3-20-04)

a. If the Secretary of State or his designee, whether acting as hearing officer or otherwise, determines that a violation has occurred, the Secretary of State shall provide the appropriate remedy. The remedy shall be directed to the improvement of processes or procedures governed by Title III. The remedy so provided may include an order to any Respondent, commanding the Respondent to take specified action, or prohibiting the Respondent from taking specified action, with respect to a past or future election; however, the remedy may not include an award of money damages or attorney's fees. The remedy may not include the denial of certification or the invalidation of any primary, general or special election, or a determination of the validity of any ballot or vote. Remedies addressing the certification of an election, the validity of an election, or of any ballot or vote may be obtained only as otherwise provided by law; (3-20-04)

b. If the complaint is not timely or not in proper form, or if the Secretary of State or his designee, whether acting as hearing officer or otherwise, determines that a violation has not occurred, or that there is not sufficient evidence to establish a violation, the Secretary of State shall dismiss the complaint; (3-20-04)

04. Explanation in Written Decision. The Secretary of State or his designee shall explain in a written decision the reasons for the determination and for any remedy selected. (3-20-04)

05. Issuance of Final Decision. Except as specified in Section 017, the final determination of the Secretary of State shall be issued within ninety (90) days after the complaint was filed, unless the Complainant consents in writing to an extension. The final determination shall be mailed to the Complainant, each Respondent, and any other interested person who has asked in writing to be advised of the final determination. It shall also be published on the Division's website and made available on request to any interested person. If the Secretary of State cannot make a final determination within ninety (90) days after the complaint was filed, or within any extension to which the Complainant consents, the complaint shall be referred for final resolution under Section 017. The record complied under Section 014 of this rule shall be made available for use under Section 017. (3-20-04)

017. ALTERNATE DISPUTE RESOLUTION.
If, for any reason, the Secretary of State or his designee does not render a final determination within ninety (90) days after the complaint was filed, or within any extension to which the Complainant consents, the complaint shall be resolved under this Section 017. (3-20-04)

01. Time Frames for Choosing and Arbitrator. On or before the fifth business day after a final determination by the Secretary of State was due, the Secretary of State shall designate in writing to the Complainant a list of names of arbitrators who may resolve the complaint. Within three (3) business days after the Complainant receives this designation, the Complainant and the Secretary of State shall arrange to choose an arbitrator from this

list by striking names from the list until an arbitrator acceptable to both parties is chosen. Within three (3) business days after the parties strike names, the Secretary of State shall contact the arbitrator chosen and arrange for the hearing by the arbitrator. (3-20-04)

02. Information the Arbitrator May Review. The arbitrator may review the record compiled in connection with the complaint, including the tape recording or any transcript of a hearing and any briefs or memoranda, but shall not receive additional testimony or evidence. In exceptional cases, the arbitrator may request that the parties present additional briefs or memoranda. (3-20-04)

03. Resolution of Complaint. The arbitrator shall determine the appropriate resolution of the complaint as set out in these rules. (3-20-04)

04. Issuance of Written Resolution. The arbitrator must issue a written resolution within sixty (60) days after the final determination of the Secretary of State was due under Section 016. This sixty (60) day period may not be extended. The final resolution of the arbitrator shall be transmitted to the Secretary of State and shall be the final resolution of the complaint. The final resolution shall be mailed to the Complainant, each Respondent, and any other interested person who has asked in writing to be advised of the final resolution. It shall be published on the Election Division website and made available on request to any interested person. (3-20-04)

018. -- 999. (RESERVED).

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STATE OF IDAHO
OFFICE OF THE SECRETARY OF STATE

Administrative Complaint Under the Help America Vote Act of 2003

Pursuant to IDAPA 34, Title 02, Chapter 02, a complaint is filed alleging a violation of the provisions of Title III of the federal Help America Vote Act of 2002.

Date of complaint: _____

Complainant

Name: _____

Address: _____

_____

Telephone: _____

Other Person Who May Have Knowledge of the Alleged Violation

Name: _____

Address: _____

_____

Telephone: _____

County and/or precinct in which violation occurred or is occurring: _____

Date of alleged violation: _____

Section of Title III for which a violation is alleged: _____

(continued on back of page)

Mail complaint to: Secretary of State, 700 West Jefferson #203, PO Box 83720, Boise ID 83720-0080

Description of the Alleged Violation
(Be as specific as possible, citing dates, places, persons, and corroborative details. Attach additional sheets if needed.)

_____

I hereby certify that the information provided above is true and correct to the best of my knowledge.

_____
Complainant

Subscribed and sworn to (or affirmed) before me this _____ day of _____, 20____.

_____
Notary Public
My Commission Expires on:
_____

ILLINOIS

TITLE 26: ELECTIONS

CHAPTER I: STATE BOARD OF ELECTIONS

PART 125.425

SUBPART H: ADMINISTRATIVE COMPLAINT PROCEDURES FOR VIOLATIONS OF TITLE III OF HAVA

Section 125.805 Applicability

This subpart shall apply to the procedures utilized by the State Board of Elections to resolve complaints filed pursuant to Title IV Section 402 of the Help America Vote Act. These Rules are authorized by the Act and Section 100/10-5 of the Illinois Administrative Procedure Act [5 ILCS 100/10-5 et seq.].

Section 125.810 Definitions

As used in this Subpart, the following terms shall have the meanings specified:

a) "Act" means the Help America Vote Act, [Public Law No. 107-252] and all amendments thereto;

b) "Board" means the State Board of Elections;

c) "Code" means the Illinois Election Code

d) "Complainant" means a party initiating a proceeding under the Act by the filing of a complaint;

e) "Election Authority" means the county clerk in all counties that do not have a county board of election commissioners, the county board of election commissioners in those counties that have adopted the provisions of Article 6A of the Election Code and the city board of election commissioners in those cities that have adopted the provisions of Article 6 of the Election Code.

f) "Federal Election" means any election in which candidates for federal office are scheduled to be elected or nominated. For purposes of this Subsection, federal offices are President and Vice President of the United States, United States Senator, Representative in the United States Congress, delegates and alternate delegates to the national nominating convention and candidates for the Presidential Preference Primary.

g) "Hearing" means the Closed Preliminary Hearing held pursuant to Section 125.130(b).

h) "Respondent" means any named entity subject to the provisions of Title III of HAVA against whom a complaint is filed.

Section 125.815 Filing of a Complaint

Any person who believes that a violation of any provision of Title III of the Act has occurred, is occurring or is about to occur, may file a complaint with the State Board of Elections. Such complaint must be filed no later than 90 days following the occurrence of the violation or 90 days following the Federal Election in connection with which the violation occurred, whichever date is later. Any complaint filed under this Section must allege a violation of Title III of the Act, must state specifically the nature of the violation and must be well grounded in fact and in law. In addition, the complaint must state whether or not the complainant desires a Hearing on the record before the State Board of Elections.

Section 125.820 Form of Complaint

a) All complaints filed under this Subsection shall be in writing and signed and sworn to (or affirmed) by the person filing the complaint and shall be notarized. In addition, the complaint shall contain the following:

1) The complaint shall be directed to and state the name of the Respondent against whom the complaint is directed;

2) The complaint shall state the provisions of the Act which are alleged to have been violated;

3) The complaint shall state the time, place and nature of the alleged offense; and

4) The complaint shall be verified, dated and signed by the complainant, in substantially the following manner:

Verification
"I declare that this complaint (including any accompanying exhibits and statements) has been examined by me and to the best of my knowledge and belief is a true and correct complaint as required by Section 402 of the Help America Vote Act."

Signed and sworn to (or affirmed) by _____ before me, on
_____ Name of Complainant

this _____ day of _____.

_____
_____ Signature of Notary Public
(SEAL OF NOTARY)

b) Upon the filing of a complaint, the office of the General Counsel shall assign a docket number to the complaint and proceeding, and all documents thereafter filed pertaining to that particular complaint or proceeding shall include the docket number first assigned.

c) The complaint shall bear the address, telephone number and fax number of the complainant or of his attorney or his authorized representative and the designation of such address or fax number shall be deemed to be consent by the complainant to have a copy of all documents filed or to be filed thereafter served upon the party at such address or fax number.

Section 125.825 Service of Complaint

A copy of the complaint must be served upon the Respondent. Service shall be complete when the document is served as provided in the Civil Practice Law [735 ILCS 5/2-203(a)], in person upon the party or his attorney or authorized representative, or deposited for mailing with the United States Postal Service, postage prepaid, registered or certified, addressed to the party.

Section 125.830 Preliminary Review of the Complaint

a) Any complaint naming an Election Authority as Respondent shall proceed under subsections b) through e) below. A complaint naming the Board as Respondent shall proceed to the alternative dispute resolution procedures set out in Subsection 125.945 below, unless the complainant waives this provision and agrees to proceed under Subsection b) through e). Any such waiver shall be in writing and signed by the Complainant. A complaint naming both the Board and an Election Authority as Respondents shall be separated for jurisdictional purposes with each Respondent subject to the procedures set out in the first two sentences of this Subsection.

b) Upon the filing of a complaint naming an Election Authority as Respondent or upon the filing of a complaint naming the Board as a Respondent and containing a waiver as provided in Subsection a) above, the General Counsel shall perform a preliminary review to determine whether or not the complaint meets the following requirements to constitute a valid complaint under the Act.

1) The complaint alleges a violation under Title III of the Act;

2) The complaint pertains to a Federal Election and

3) The complaint states sufficient facts as to constitute a cause of action under the Act for which the Board can grant proper relief.

If the General Counsel determines that the complaint meets the above criteria for a valid complaint under the Act, then the complaint shall proceed under subsection c) and d) below. If the General Counsel determines that the complaint has not met the above criteria for a valid complaint under the Act, the complaint

shall be presented to the Board for a final determination of its status. In addition, the Complainant shall be notified in writing of the General Counsel's determination of the complaint's invalidity and be given an opportunity to appear before the Board to show cause as to why the complaint should not be dismissed. The decision of the Board as to the status of the complaint shall be in the form of a Final Order subject to appeal under the provisions of Section 9-22 of the Code. As an alternative to summary dismissal of the complaint, the Board may determine that the complaint alleges a violation of the Code and refer it for investigation to the appropriate division of the Board or to the appropriate Election Authority or law enforcement agency.

c) After a determination by the General Counsel that the complaint meets the criteria set out in Subsection a) above, and upon the written request of the Complainant, the Board shall appoint a Hearing Examiner to conduct a Closed Preliminary Hearing. This Hearing shall be held to determine whether the complaint is well grounded in fact and law. Such request must be a part of or accompany the complaint when filed. Following the Hearing, the Hearing Examiner shall make a written recommendation as to whether the complaint is well grounded in fact and law and a copy of the recommendation shall be given to the General Counsel for his recommendation and to both parties to the complaint. Upon receipt of the recommendation of the Hearing Examiner and the General Counsel, the Board shall make a final determination as to the merits of the complaint and shall make a decision as to what, if any action should be taken as a result of the complaint. The final determination and decision shall be in the form of a Final Order subject to appeal under the provisions of Section 9-22 of the Code.

d) Should the Complainant fail to request a Hearing, the Board shall appoint a Hearing Examiner to make a recommendation based solely on the complaint, any evidence submitted with the complaint and any response offered by the Respondent as to whether the complaint is well grounded in fact and law. The Hearing Examiner shall allow the Respondent an opportunity for a Hearing to present evidence supporting any offered defense (both documentary and/or testimonial) prior to the Hearing Examiner submitting the recommendation to the General Counsel. The Complainant shall be given notice and an opportunity to be present and participate in the Hearing; however, failure of the Complainant to appear at such Hearing shall not factor into the Hearing Examiner's recommendation as to whether the complaint is well grounded in fact and law. The Hearing Examiner, after consideration of all evidence presented by the parties, shall prepare a written recommendation to be given to both the General Counsel for his recommendation and to both parties to the complaint. Upon receipt of the recommendation of the Hearing Examiner and the General Counsel, the Board shall make a final determination as to the merits of the complaint and shall make a decision as to what, if any action should be taken as a result of the complaint. The final determination and decision shall be in the form of a Final Order subject to appeal under the provisions of Section 9-22 of the Code.

e) The proceedings of the Hearing shall be recorded either by a certified court reporter or by means of an electronic recording device. Any party may provide for their own recording of the proceedings of the Hearing utilizing a court reporter or any other recording device. Any associated costs however, shall be born by the party providing for the recording.

f) The Board shall render a final determination of the matters alleged in the complaint within 90 days of the filing of the complaint. Such time period may be extended by a written waiver of the Complainant. If the Board cannot resolve the issues raised in the complaint by the end of the 90 day period and no such waiver is provided by the Complainant, then the Board shall order the matter to be resolved by an alternative dispute resolution mechanism described in Section 125.945.

Section 125.835 Documents Pertaining to Hearings

All documents, including but not limited to complaints, notices and motions, shall be filed with the Hearing Examiner and a copy shall be served upon the adverse party or their attorney or other authorized representative as provided by Section 125.825 or if agreed to by the parties, facsimile or electronic mail transmission.

Section 125.840 Computation of Time

Computation of the 90 day period of time mandated by Section 125.830 (e) shall begin with the first day following the day on which the complaint is filed, and shall run until the end of the 90th day, or the next following business day if the 90th day is a Saturday, Sunday or State holiday as defined in Section 5/1-6 of the Code.

Section 125.845 Appearances

a) The parties to a complaint filed under this Section may appear as follows:

1) The Complainant may appear on his own behalf or by any authorized representative, including an attorney at law licensed and registered to practice in the State of Illinois, or both;

2) The Respondent may appear by any bona fide officer, employee, or other authorized representative, including an attorney licensed and registered to practice in the State of Illinois, or both.

b) Attorneys not licensed and registered to practice in the State of Illinois may appear on motion, subject to approval of the Hearing Examiner.

c) Any person appearing in a representative capacity shall file a written notice of appearance with the Hearing Examiner. Such appearance form may be submitted at the beginning of the Hearing, or if no Hearing is requested by the complainant, then such appearance shall be submitted within 5 business days following the filing of the complaint.

Section 125.850 Non-legal Assistance

Any party involved in the complaint proceeding shall have the right to the presence and participation of additional persons in order to provide technical assistance and consultation. To maintain order, the Hearing Examiner may at his discretion restrict the number of such additional persons who may attend and participate in the proceedings.

Section 125.855 Designation of Parties

If a complete determination of the complaint cannot be had without the presence of other parties, the Hearing Examiner or the Board may direct them to be brought in. Service of process shall be as provided in Section 125.825 and any subsequent motions and other documents shall be as provided in Section 125.835(b).

Section 125.860 Answer

Any respondent may file a written answer to a complaint prior to or at the time of any proceeding or Hearing, but shall not be required to file an answer. The failure to file an answer shall not be deemed an admission of any allegation in the complaint nor a consent to any requested relief. The answer shall be filed with the Hearing Examiner and at least one copy shall be served upon all other parties to the proceeding, in accordance with Section 125.835(b).

Section 125.865 Appointment and Qualifications of Hearing Examiner

Within 5 business days of the filing of a complaint, the General Counsel shall appoint a Hearing Examiner to hear the complaint, who shall be a licensed attorney in the State of Illinois. Written notice of the appointment of the Hearing Examiner shall be provided to the parties within 5 business days of their appointment.

Section 125.870 Authority of Hearing Examiner

The Hearing Examiner has the authority to conduct and preside over the Hearing and is empowered to take all necessary action to avoid delay, to maintain order, to ensure compliance with all requirements contained in this Subpart, and to ensure the development of a clear and complete record and shall have all powers necessary to conduct a fair and impartial Hearing.

Section 125.875 Disqualification of Hearing Examiner

Any party to a Hearing may file a written request for disqualification of the Hearing Examiner, setting forth the nature of the personal bias, prejudice, or other grounds for disqualification. Such request shall be made to the General Counsel who will make the decision as to whether the Hearing Examiner should be disqualified. When a Hearing Examiner is disqualified, or it becomes impractical for him to continue, another Hearing Examiner shall be appointed in the same manner as provided for the initial appointment. A Hearing Examiner may at any time voluntarily disqualify himself. A request for disqualification made by a party shall be considered timely if made within five business days after the dispatch of the notice of the appointment of the Hearing Examiner and if received at least three business days prior to the commencement of the Hearing by the Hearing Examiner.

Section 125.880 Motions

Unless otherwise directed by the Hearing Examiner, motions shall be in writing and submitted to the Hearing Examiner and the adverse party prior to the Hearing. Where the Board is conducting a Hearing to determine the final disposition of the complaint, motions shall be received as directed by the Board.

Section 125.885 Consolidation and Severance of Claims: Additional Parties

In the interest of convenience, and the expeditious and complete determination of claims, the Hearing Examiner or the Board may consolidate or sever complaints involving any number of parties, and may order additional parties to be brought in pursuant to the provisions of Section 125.860.

Section 125.890 Amendments

Complaints may be amended under any of the following circumstances:

a) at the request of the General Counsel following the preliminary review referred to in Subsection a) of 125.830;

b) to correct any technical defects;

c) to conform to the evidence presented at the Hearing;

d) to conform to new matters that arise at the Hearing if it appears from the original and amended complaint that the cause of action asserted in the amended complaint grew out of the same transaction or occurrence.

Section 125.895 Pre-Hearing Conferences

a) At the request of the Hearing Examiner or either party and prior to the Hearing, the Hearing Examiner may direct the parties or their attorneys to appear at a

specified time and place for a conference, for the purposes hereinafter mentioned. The purposes for such conferences shall include:

1) the simplification of issues;

2) the necessity or desirability of amending the complaint;

3) the possibility of stipulations of fact;

4) the limitation of the number of witnesses;

5) such other matters that may aid in the simplification of the evidence and disposition of the proceeding.

b) In exercising such discretion, the Hearing Examiner shall give due consideration to the time requirements of Section 125.830(e).

Section 125.900 Settlement Pursuant to Conference

At any time prior to or during the Hearing, an opportunity shall be afforded all parties to dispose of the case by written stipulation, agreed settlement or consent order, unless otherwise precluded by law. Any stipulation, agreed settlement, or consent order shall be submitted in writing to the Board and shall become effective only if approved by the Board.

Section 125.905 Continuances

A Hearing may be continued for good cause by the Hearing Examiner upon his own motion or upon motion of a party to the Hearing after due consideration of any time limitations required by law or by this Subpart. Notice of any postponement or continuance shall be given to all parties at least 3 business days in advance of the previously scheduled Hearing date. All parties involved in a Hearing shall attempt to avoid undue delay caused by repetitive continuances so that the Hearing may be resolved expeditiously.

Section 125.910 Failure of Party to Appear

Failure of the Respondent to appear on the date set for a Hearing shall not deter the Hearing from proceeding unless the Hearing Examiner shall, for good cause, order a continuance. Failure of the Complainant to appear on the date set for Hearing without good cause shown, shall be grounds for dismissal of the complaint for want of prosecution.

Section 125.915 Evidence

a) Except with respect to matters of privilege, the rules of evidence as applied in civil cases in courts of this State shall not be strictly applied to Hearings under this Subpart. Admissibility of evidence shall be liberally interpreted in order to present all matters which are or may be relevant to the issues affecting the parties. Hearsay evidence shall be admissible if deemed to be reliable and trustworthy by the Hearing Examiner.

b) The Hearing Examiner shall exclude immaterial, irrelevant and repetitious evidence.

c) A party may conduct examinations or cross-examinations without rigid adherence to formal rules of evidence, provided the examination or cross-examination can be shown to be necessary and pertinent to a full and fair disclosure of the subject matters of the Hearing.

Section 125.920 Official Notice

Notice may be taken of matters of which the Circuit Courts of this State may take judicial notice. In addition, notice may be taken of generally recognized technical or scientific facts within the Board's specialized knowledge. The Board's experience, technical competence and specialized knowledge may be utilized in the evaluation of any evidence submitted by the parties.

Section 125.925 Subpoenas

a) Pursuant to Article 10 of the Illinois Administrative Procedure Act, and upon application to the Hearing Examiner by any party, or upon the request of the Hearing Examiner, the Board may authorize the General Counsel to issue a subpoena for attendance at the Hearing, which may include a command to produce documents or other tangible things designated therein that are reasonably necessary to resolution of the matter under consideration. The Hearing Examiner, upon motion, and in any event at or before the time specified in the subpoena for compliance therewith, may quash or modify the subpoena if it is unreasonable or oppressive.

b) Every subpoena shall state the title of the action and shall command each person to whom it is directed:

1) to attend and give testimony at the time and place therein specified, and/or

2) to produce books, papers, documents or tangible things designated therein at the time and place therein specified.

c) A subpoena duces tecum may be limited to the production of documents and not require personal attendance of the person to whom it is directed.

d) The party requesting the issuance of a subpoena compelling personal attendance shall tender therewith a check reimbursing the witness for the round trip cost of travel between the witness's place of residence and the place where his presence is requested. Reimbursement shall be equal to that provided by the Governor's

Travel Board for reimbursement of State Employees traveling on official state business.

Section 125.930 Scope of Hearing – Procedures – Evidence

The Hearing is not an adjudication, nor does it need to be adversarial in nature. It is an inquiry to elicit evidence on the question of whether the complaint is well grounded in fact and law.

1) Any person offering evidence, written or oral shall affirm to the Hearing Examiner that his or her evidence is true to the best of his or her information and belief;

2) Evidence may be submitted in narrative form;

3) The Hearing Examiner shall not be bound to follow the rules of evidence used in an Illinois court of law, but may admit and rely upon for his recommendation such evidence or information of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

4) The Complainant will present his case first except when convenience to the Hearing Examiner or the Respondent requires the Respondent to proceed first. The Respondent will then present any information or evidence supporting his or her defense; and

5) The Hearing Examiner may ask the Complainant or Respondent any questions relevant to the allegations contained in the complaint.

At the close of the Hearing the Hearing Examiner shall summarize his conclusions concerning the evidence and information presented and draft a recommendation to the Board addressing the question of whether the complaint is well grounded in fact and law. The Hearing Examiner shall include any documents tendered to him or her during the Hearing and submit them with the recommendation to the General Counsel for his consideration. The General Counsel shall then present the recommendation and accompanying documentation to the Board for their final determination.
The official record of a Hearing shall consist of the transcript (or tape recording of the proceedings) copies of any motions submitted, documentary evidence, copies of all notices and the recommendation of the Hearing Examiner.

Section 125.935 Responsibilities of the General Counsel

a) Upon receipt of a copy of the recommendation of the Hearing Examiner, the General Counsel shall:

1) Review the recommendation and determine whether the facts support the recommendation and whether any questions of law have been properly applied.

2) Indicate in writing whether or not he concurs with the recommendation of the Hearing Examiner and if not, state the reasons therefore.

3) Transmit his remarks and recommendation to the Board within a reasonable time prior to the meeting at which the matter will be addressed by the Board.

b) If there is insufficient time between receipt of the Hearing Examiner's recommendation and the meeting at which the Board will dispose of the complaint, the General Counsel may give his recommendation orally.

Section 125.940 Board Determination

a) After the submission of the recommendation of the Hearing Examiner, the transcript (if requested by the Board), and the recommendation of the General Counsel, the Board shall make a final determination of whether the complaint was well grounded in fact and law. If the Board makes such a determination, and the Respondent is unwilling to take the necessary action to correct the matter or is unwilling to cease the conduct alleged in the complaint, the Board shall issue an order granting whatever relief it deems appropriate. If the Board determines that the complaint is not well grounded in fact and law, or is not properly before it as not alleging a violation of Title III of the Act, then the Board shall either dismiss the complaint, or refer it to the proper agency or department for their consideration.

b) The Board may consider and discuss the Hearing Examiner's recommendation through a conference telephone call begun in open session and continued in executive session in lieu of an in-person meeting, and such consideration and discussion shall be deemed part of the Hearing process. Any action on the Hearing Examiner's recommendations must be taken in open session, or if taken as part of the telephonic conference call, that portion of the conference call shall be broadcast over a speaker phone or other similar device at both the permanent and branch offices of the Board and that portion of the broadcast call be open to the media and public

Section 125.945 Alternative Dispute Resolution

If the State Board of Elections is not able to resolve the complaint within 90 days of its filing or if the complainant names the Board as Respondent and is not willing to waive the Board's jurisdiction pursuant to Section 125.130 or if the complainant refuses to waive the 90 day deadline, the Board shall refer the matter to a person, company or association providing dispute resolution services. The matter shall be resolved within 60 days of its referral. This time limitation shall be included in any contract for the provision of these services. The Board may accept suggestions from the parties as to whom the matter shall be referred to, however the Board shall have final authority in the selection process. Costs of the service shall be borne by the complainant. The record from any Hearings conducted under this Subpart shall be made available for use by the dispute resolution company chosen by the Board.

KENTUCKY

31 KAR 6:010. State-based administrative complaint procedure.

RELATES TO: KRS Chapter 13B, 117.015(1), 42 U.S.C. 15512

STATUTORY AUTHORITY: KRS 117.015(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 117.015(1) authorizes the Kentucky State Board of Elections to promulgate administrative regulations necessary to properly carry out its duties in the administration of the election laws. The Help America Vote Act of 2002, 42 U.S.C. 15512, Section 402(a), requires the establishment of a state-based administrative complaint procedures to remedy grievances in elections for federal offices. This administrative regulation establishes an administrative complaint procedure to remedy grievances in elections for federal offices.

Section 1. Definitions. (1) "Board" means the State Board of Elections or their designee as defined in KRS 117.015 and 117.025.

(2) "Complainant" means the person who files a complaint under this administrative regulation.

(3) "Federal election" means a primary, general, or special election at which a federal office appears on the ballot.

(4) "Presiding officer" means the person appointed by the board to conduct a hearing on a complaint.

(5) "Respondent" means any state or local election official whose actions are alleged, in a written complaint, to be in violation of Title III of the Help America Vote Act of 2002, 42 U.S.C. 15481.

(6) "State or local election official" means the Secretary of State, the State Board of Elections, a county clerk, a county board of elections, or any officer, agent, or appointee thereof.

(7) "Title III" means Title III of the Help America Vote Act of 2002, Pub.L. 107-252, codified at 42 U.S.C. 15481.

Section 2. Applicability. This administrative regulation shall be applicable to elections for federal office.

Section 3. Complaint Process. (1) Any person who believes there has been a violation of any provision of Title III of the Act by any election official may file a written complaint with the board.

(2) All complaints shall:

(a) Be limited to violations of the requirements placed upon the states by Title III, specifically:

1. Standards for voting systems;

2. Requirements for provisional voting and voting information; and

3. Requirements for computerized statewide voter registration lists and for voters who register by mail.

(b) Be in writing on the Complaint and Affidavit for Violation of Title III of the Help America Vote Act of 2002, and signed by the complainant under oath or affirmation before an officer authorized to administer oaths.

(c) Include the full name, address, and telephone number of the complainant.

(d) Include a description of the alleged violation sufficient to apprise the board and the respondent of the nature and specifics of the complaint.

(e) Be sent by mail or by delivery to the Offices of the State Board of Elections at 140 Walnut Street, Frankfort, Kentucky 40601.

(f) Be filed within ninety (90) days of the alleged violation of Title III.

Section 4. Processing the Complaint and Response. (1) The board may refuse to accept a complaint if the complaint does not comply with the requirements of Section 3 of this administrative regulation, except the board shall dismiss a complaint that does not state on its face a violation of Title III.

(2) If a complaint does not comply with Section 3 of this administrative regulation the board shall, within three (3) days, send the complainant a notice explaining the areas of noncompliance in the complaint.

(3) If a complaint complies with Section 3 of this administrative regulation and states on its face a Title III violation, the board shall accept the complaint and the complaint shall be deemed filed on the date of receipt at the offices of the board.

(4) Upon receipt of a complaint, the board shall send a copy to the respondent along with a request for a response.

(5) The respondent shall send a response to the board within ten (10) days of the date the respondent received notice from the board of the filed complaint.

(6) Upon receipt of the respondent's response, the board shall within three (3) days, send the complainant a copy of the respondent's response and a notice explaining the complaint may be resolved informally by agreement of the parties or a hearing may be requested. The complainant shall have ten (10) days from the date the notice is received to request an informal resolution or a hearing.

(7) The executive director of the board shall be responsible for arranging the date, time and place for hearings.

(8) The board may consolidate multiple complaints into a single proceeding if feasible and if the complaints arise out of the same fact situation and have common questions of law and facts.

(9) The board shall make a final determination of the complaint within ninety (90) days of the date the complaint is filed unless the complainant agrees in writing to an extension.

Section 5. Hearings. (1) Hearings shall be conducted in accordance with KRS Chapter 13B.

(2) Hearings shall be tape recorded and a transcript of the hearing shall not be made except upon request of a party who shall bear the cost of transcription. Any other party may request a copy of the transcript at their own expense.

(3) Hearings may be held and testimony taken by teleconference or video conference with notice to the parties.

(4) If any party fails, without good cause, to attend the hearing, they may be held in default and have a determination made against them.

(5) All testimony shall be taken under oath or affirmation.

(6) The complainant shall have the burden of proof.

Section 6. Final Determination. (1) If the presiding officer determines that there was a past, present, or potential violation of Title III, shall then the final determination shall set forth the facts of the violation, the specific violation of Title III, and provide a remedy.

(2) The remedy awarded shall be directed at the improvement of processes or procedures governed by Title III, consistent with federal and state law.

(3) The remedy provided shall not include money damages, costs, or attorney fees and shall be limited to bringing the election practice or election system complained of into compliance with Title III.

Section 7. Alternative Dispute Resolution. (1) If a final determination of a complaint is not made within ninety (90) days of the filing of the complaint, and the complainant did not agree to an extension, then the complaint shall be referred to a review panel comprised of three (3) members of the board.

(2) The review panel shall issue a final determination on the complaint within sixty (60) days of the referral.

(3) The review panel shall make its determination on the record of the hearing conducted under this administrative regulation and shall not conduct any further proceedings.

(4) If the hearing was not conducted or completed, then the review panel shall conduct a hearing under this administrative regulation.

Section 8. Publication of Final Determinations. All final determinations shall be posted on the internet homepage of the board, www.kysos.com/Index/Main/elecdiv.asp, and retained in the permanent archival records of the board by attaching to the minutes of the monthly meeting of the board for the month the final determination was issued.

Section 9. Incorporation by Reference. (1) Complaint and Affidavit for Violation of Title III of the Help America Vote Act of 2002," SBE 21(12/03), is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Offices of the State Board of Elections, 140 Walnut Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4 p.m. (30 Ky.R. 1881; Am. 2134; eff. 4-12-2004.)

MASSACHUSETTS

950 CMR: OFFICE OF THE SECRETARY OF THE COMMONWEALTH

950 CMR 56.00: ADMINISTRATIVE PROCEEDINGS CONCERNING PRACTICES OF LOCAL ELECTION OFFICIALS

Section

56.01: General Provisions
56.02: Complaint
56.03: Investigation; Consultation; Report
56.04: Decision
56.05: Enforcement

56.01: General Provisions

(1) Purpose. 950 CMR 56.00 provides procedures for the Secretary to decide whether a pattern of conduct or a standard, practice or procedure of a local official is contrary to the election laws, under M.G.L. c. 56, ' 60 and further provides an administrative complaint procedure in accordance with the requirements of Section 402 the Help America Vote Act of 2002. These provisions shall be construed to promote the fundamental right to vote and the uniform application of the election laws throughout the Commonwealth.

(2) Definitions. As used in 950 CMR 56.00:

Election Laws (as used in 950 CMR 56.00) and General or Special Law concerning administration of elections" (as used in M.G.L. c. 56, ' 60) include any provision of M.G.L. chs. 50 through 54, or of any other general or special law, including the provisions of the Help America Vote Act of 2002, 42 USC 15301, constitutional provision, or home rule charter concerning administration of elections, or of any regulation adopted under authority of any of the preceding provisions, or of any judicial or administrative decision interpreting any of the preceding provisions.

HAVA means the relevant provisions of the Help America Vote Act of 2002, 42 USC 15301, *et seq*.

Local Official includes one or more of a city or town clerk, election commission, board of registrars of voters, or any other municipal or district officer upon whom a duty is imposed by the election laws.

Secretary means the state secretary, or the state secretary's chief legal counsel or another attorney designated to act on the state secretary's behalf.

Urgent Circumstances shall be determined by the Secretary and include, but are not limited to, the time period on or near the day of a primary, caucus, or election, or of a deadline for voter registration or for filing or submitting any relevant document under the election laws.

COMMONWEALTH OF KENTUCKY
STATE BOARD OF ELECTIONS
140 WALNUT STREET * FRANKFORT KY 40601-3240
(502) 573-7100

COMPLAINT AND AFFIDAVIT FOR VIOLATION OF TITLE III OF THE HELP AMERICA VOTE ACT OF 2002

Instructions:
a. For use of this form, see Administrative Regulation 31 KAR 3:010E.
b. Use of this form is limited to violations of Title III of the Help America Vote Act of 2002, Public Law 107-252, governing elections for federal office.
c. Title III places requirements on the states concerning voting system standards, provisional voting, voting information requirements, computerized statewide voter registration list requirements, and requirements for voters who register by mail.
d. If this document is incomplete or if your complaint fails to state a violation of Title III, it shall not be acceptable for filing.
e. The complaint shall be filed with the State Board of Elections within ninety days of the alleged violation.

Section 1: Please state under oath or affirmation and in legible writing your full name, physical address, mailing address, and telephone number. If you do not have an address or telephone number, please so state and explain the best way to contact you.

Name (Please Print)			
Residential Address			
Mailing Address (If different)			
City/State/Zip			
Telephone Number	( )		

Section 2: Please state in writing under oath or affirmation in your own words why you believe a violation of Title III of the Help America Vote Act of 2002 has occurred, is occurring, or is about to occur. State a description of the alleged violation sufficient to apprise the Board and the respondent of the nature and specifics of the complaint below and attach additional sheet if more space is needed.

Section 3: Please state what you want done about the violation to bring the election system or election process into compliance with Title III of the Act. Attach additional sheet if more space is needed.

_____
Signature of Complainant

Subscribed and sworn to or affirmed before me by _____, who personally appeared before me on _____ day of _____ 20 ____.

My Commission Expires: _____ 20 ____.

_____
Notary Public State at Large

SBE 21 (12/03)

White & canary copies: State Board of Elections
Pink copy: Complainant

(3) Amendment. 950 CMR 56.00 may be amended at any time in the manner provided by law. Any interested person may petition the Secretary requesting the adoption, amendment, or repeal of any regulation, under M.G.L. c. 30A, ' 4. This petition shall be considered by the Secretary within 30 days after filing.

56.02: Complaint

Any person may complain to the Secretary that a pattern of conduct, or a standard, practice or procedure, of a local election official is contrary to the election laws. Additionally, a person may complain to the Secretary, in accordance with the provisions of Section 402 of HAVA, that Title III has been violated, is being violated or is about to be violated.

(1) Complaints need not use the language or refer to the relevant provision of the election laws, nor M.G.L. c. 56, ' 60, nor 950 CMR 56.00. The complaint shall be in writing, except in urgent circumstances. The Secretary=s office may initiate a complaint.

56.02: continued

(2) Complaints filed in accordance with Section 402 of HAVA, must be in writing and notarized.

(3) Any complaints must be made to: Elections Division
Office of the Secretary of the Commonwealth
One Ashburton Place, Room 1705
Boston, MA 02108

56.03: Investigation; Consultation; Report

(1) The Secretary shall assign any complaint to an investigator, who shall be an employee of the Secretary=s Elections Division.

(2) The investigator shall investigate the complaint=s allegations under the supervision of the Secretary or his designee and with the assistance of other employees of the Secretary=s Elections Division.

(3) The investigator shall consult with the local election official complained of, by informing the local election official of the substance of the complaint and requesting a response.

(4) The investigator, after review by the Secretary or his designee, may decide that the complaint is without basis, is outside the Secretary=s jurisdiction, or fails to state a claim upon which relief can be granted, and shall so inform the local election official and the complainant in writing.

(5) The investigator shall then prepare a report, including the results of this consultation, and shall present this report to the Secretary.

(6) The report may recommend an informal resolution or the text of an order. Except in urgent circumstances, the report shall be in writing and shall be sent to the local official and to the complainant, who may file their written comments on it with the Secretary within ten days after the report was sent.

56.04: Decision

(1) After reviewing the report and any written comments, the Secretary may render a decision which may incorporate the report in whole or in part. The Secretary may hold an informal conference before rendering a decision.

(2) Before a decision is rendered, hearings may be held. The parties shall include the local official, the Secretary=s investigator, and any complainant who wishes to participate.

(a) After reviewing the report and any written comments, and before rendering a decision, the Secretary may initiate an adjudicatory proceeding by issuing an order to show cause to the local election official under 801 CMR 1.01(6)(d).

1. The decision whether or not to hold an adjudicatory hearing shall be in the Secretary=s unreviewable discretion.

2. An adjudicatory hearing shall be before the Secretary and shall be governed by 801 CMR 1.01, except as the Secretary may modify these rules because of time restraints.

(b) For complaints filed in accordance with Section 402 of HAVA, the complainant may request a hearing on the record.

1. Decisions on complaints filed in accordance with Section 402 of HAVA shall be made within 90 days from the date the complaint is filed, unless the complainant consents to a longer period for making such decision.

2. If a decision is not made within 90 days as set forth above, the matter shall be referred to the Massachusetts Office on Dispute Resolution for further proceedings.

(c) After any hearing, the Secretary shall render a decision.

56.04: continued

(3) The Secretary's decision shall be in writing, shall state the reasons for the decision, and may include an order to the local official to comply with the relevant provisions of the election laws. It shall be mailed to the local official and to the complainant. In urgent circumstances, it shall also be delivered by hand to the local official or communicated by telephone to the local official.

(4) Before issuing any order to comply with law, the Secretary shall notify the Attorney General or an assistant attorney general designated by the Attorney General for this purpose.

(5) The Secretary's order may require that the local official sign an affidavit giving assurances that the local official will obey the order.

56.05: Enforcement

The Secretary may notify the Attorney General of any local official's failure to obey an order. The Attorney General may enforce the order by civil action.

REGULATORY AUTHORITY

950 CMR 56.00: M.G.L. c. 56, ' 60.

Mississippi

Secretary of State's Regulation Creating An Administrative Complaint Procedure in Compliance with the Help America Vote Act of 2002

I. Authorization. Title IV §402(a)(2) of the Help America Vote Act of 2002 (HAVA), Public Law 107-252, 42 U.S.C. §§15481 to 15502, inclusive, mandates that states implement an administrative complaint procedure for enforcement of Title III of HAVA.

II. Scope. This rule provides a uniform, nondiscriminatory procedure for the resolution of any complaint in any federal, state, or local election alleging a violation of any provision of Title III of HAVA, including violations that have occurred, are occurring or are about to occur.

III. Definitions. In this rule the following terms have the following meanings:

A. "Complainant" means the person who files a complaint with the Secretary of State pursuant to sections IV, V and VI of this rule.

B. "Respondent" means any state or local election official or board against whom a complaint is filed pursuant to sections IV, V and VI of this rule.

C. "Title III" means Title III of HAVA, Public Law 107-252, 42 U.S.C. §15481-15485.

D. "State or local election official" means the Secretary of State, the State Board of Election Commissioners, a circuit or municipal clerk, a county or municipal election commissioner or election commission, the state or local political party executive committee or executive committee member, a poll manager or any employee, officer, agent or appointee thereof.

IV. Who May File. Any person who believes that a violation of Title III of HAVA has occurred, is occurring or is about to occur may file a complaint.

V. Form of Complaint.

A. Writing and Notarization. A complaint filed pursuant to section IV shall be in writing and notarized, signed and sworn to by the Complainant. The complaint must also provide the name of each respondent and contain a concise statement of the facts alleged to violate Title III of HAVA.

B. Prescribed Form. The Complainant must use the form prescribed by the Secretary of State or his designee, which is available from the Secretary of State's Office or from any state or local political party executive committee, local election commission or circuit or municipal clerk, or which may be downloaded from the Secretary of State's website at www.sos.state.ms.us;

VI. Place, Time and Method for Filing; Copy for Respondent.

A. Place for Filing. A complaint shall be filed with the Secretary of State's Office, Elections Division, 401 Mississippi Street, Jackson, Mississippi 39201.

B. Time for Filing. A complaint shall be filed within 30 days after the occurrence of the actions or events forming the basis of the complaint or after the complainant knew, or with the exercise of reasonable diligence, should have known of the action or event forming the basis for the complaint. The deadline for filing any complaint may be extended an additional 30 days in the discretion of the Secretary of State or his designee upon presentation of evidence by the Complainant that the Respondent concealed the actions or events forming the basis of the complaint.

C. The complaint shall be delivered to the Secretary of State's Office by hand-delivery or by overnight service to 401 Mississippi Street, Jackson, Mississippi 39201, or by mail to Post Office Box 136, Jackson, Mississippi 39205. A complaint shall be deemed filed upon receipt by the Secretary of State's Office and not upon mailing or postmark.

D. Copy for Respondent. For filing to be deemed complete, the Complainant shall mail or deliver a copy of the complaint to each Respondent not later than the date on which the complaint is filed and submit proof of such delivery to the Secretary of State.

VII. Processing of Complaint.

A. Consolidation. The Secretary of State or his designee may consolidate complaints if they relate to the same actions or events, or if they raise common questions of law or fact. The Secretary of State or his designee shall notify all interested parties if two or more complaints have been consolidated.

B. Record.

1. The Secretary of State or his designee shall compile and maintain an official record in connection with each complaint filed pursuant to this rule.

2. The official record shall contain:

a. A copy of the complaint, including any amendments made to it with the permission of the Secretary of State or his designee;

b. A copy of any written submission by the Complainant;

c. A copy of any written response by the Respondent or other interested person;

d. A written report of any inquiry conducted by employees of the Secretary of State's Office or of any other state or local election officials who may not be directly involved in the actions or events complained of and may not directly supervise or be directly supervised by any Respondent;

e. Copies of all notices and correspondence to or from the Secretary of State or his designee in connection with the handling of the complaint;

f. Originals or copies of any tangible evidence produced at any hearing conducted under this rule;

g. The original tape recording produced at any hearing conducted under this rule; and

h. A copy of any final determination made under this rule.

C. The Secretary of State or his designee will review each complaint filed pursuant to sections IV, V and VI of this rule to determine whether the complaint: (a) states a violation of Title III of HAVA; and (b) complies with the other requirements of sections IV, V and VI of this rule.

D. If a complaint fails to state a violation of Title III of HAVA or does not comply with other requirements of sections IV, V and VI of this rule, then the Secretary of State or his designee shall dismiss the complaint without further action and notice of the dismissal will be provided to the complainant.

E. Except as otherwise provided in subsection F section VII of this rule, a complainant whose complaint has been dismissed pursuant to this section may re-file the complaint within the time set forth in section VI (b) of this rule.

F. A complainant whose complaint has been dismissed for failure to state a violation of Title III of HAVA may re-file the complaint only one time.

G. The Secretary of State or his designee may, upon agreement of all the parties, resolve the complaint informally, and issue a final determination, without a formal proceeding.

H. The Secretary of State or his designee may require the parties to submit written briefs on any of the issues involved in the complaint.

VIII. Hearing. If requested by the Complainant in his complaint or so ordered by the Secretary of State or his designee, and the complaint has not been dismissed pursuant to section VII(D) or informally resolved pursuant to section VII(G) of this rule, the Secretary of State or his designee will schedule a hearing that shall proceed as follows:

A. The hearing may be conducted without adherence to requirements of the Mississippi Rules of Civil Procedure or the Mississippi Rules of Evidence.

B. The hearing shall be conducted no sooner than 10 days and no later than 30 days after receipt by the Secretary of State's Office of a complaint containing a request for a hearing and shall be set by the Secretary of State or his designee. The Secretary of State or his designee shall give at least 5 days' advance notice of the date, time and place of the hearing:

1. By mail to the Complainant, each Respondent (to the addresses set out in the complaint and response) and any other interested person who has asked the Secretary of State in writing to be advised of the hearing;

2. On the Secretary of State's website (www.sos.state.ms.us); and

3. By posting in a prominent place, available to the general public, at the Secretary of State's Office.

C. The Secretary of State or his designee shall act as hearing officer.

D. The Complainant, any Respondent or any other interested member of the public may appear at the hearing and testify under oath or present relevant evidence in connection with the complaint. The hearing officer may limit the testimony, if necessary, to ensure that all interested persons are able to present their views. The hearing officer may recess the hearing and reconvene at a later date, time and place publicly announced at the hearing. In the case of consolidated complaints, the hearing officer may require the Complainants and/or Respondents to designate a single representative party to advocate for the consolidated group of Complainants and/or Respondents at the hearing.

E. In the discretion of the hearing officer, the hearing may be held via conference telephone call or video teleconferencing. In such a case, the notice shall so state and provide for technical details.

F. The proceedings shall be tape recorded by and at the expense of the Secretary of State. The recording shall not be transcribed as a matter of course and any party or interested person may obtain a copy of the tape at its own expense. If a transcript is obtained, a copy of it shall be filed as part of the record and any interested party may examine it.

G. If the Complainant fails to appear at the hearing, the complaint shall be dismissed with prejudice.

H. Cross-examination at the hearing will be permitted only at the discretion of the hearing officer, but a person may testify or present evidence at the hearing to contradict any other testimony or evidence presented at the hearing. If a person has already testified or presented evidence at the hearing and wishes to contradict testimony or evidence presented subsequently, that person is entitled to be heard again only at the discretion of the hearing officer who may authorize the person to provide an oral or written response, or both.

I. Any party to the proceeding may file a written brief or memorandum with the hearing officer not later than 5 business days after the hearing's conclusion. The party shall serve a copy of any such written brief or memorandum on all other parties no later than the time the written brief or memorandum is filed with the hearing officer. No responsive or reply memorandum to such a brief or memorandum will be accepted without the specific authorization of the hearing officer.

IX. Determination. A final determination on the complaint shall be made within 90 days of the Secretary of State's receipt of the complaint and must be in writing. This time period may only be extended on the written consent of the Complainant.

A. The determination as to whether a Title III violation has been established shall be based on the preponderance of the evidence standard. The burden of proving by a preponderance of the evidence that a Title III violation exists shall be on the Complainant.

B. The determination shall constitute a final and binding decision which is not appealable to any state or federal court.

C. If it is found that there was a past, present or potential violation of Title III of HAVA, then the written determination shall state the facts of the violation, set forth the specific law violated and provide for a remedy. The remedy provided shall be directed to the improvement of processes or procedures governed by Title III. The principal remedy shall be written findings that a violation occurred and strategies or recommendations for ensuring that future violations do not occur.

D. Any remedy provided for under this rule may not include any award of monetary damages, the payment of costs, penalties or attorneys fees and may not include the invalidation of any vote, ballot, primary, special or general election result or the disqualification of any candidate.

E. All final determinations shall be posted on the website of the Secretary of State (www.sos.state.ms.us) and mailed to the Complainant, each Respondent and other interested persons who asked in writing to be advised of the final determination.

X. Alternative Dispute Resolution.

A. The Secretary of State may, by written order, refer this matter at any time for alternative dispute resolution. In addition, if the Secretary of State or his designee does not render a final determination on a complaint filed under this rule within 90 days after the complaint is filed, or within any extension period to which the complainant has consented, the Secretary of State or his designee will, on or before the 5th business day after the final determination was due to be issued, by order initiate alternative dispute resolution. A copy of this order shall be provided to the Complainant and the Respondent.

B. The Secretary of State shall maintain a list of approved arbitrators to be used in these proceedings and from which arbitration panel members must be selected.

C. The written order of provided for in section X(A) of this rule shall designate an arbitrator to serve on a panel to resolve the complaint. Within 3 business days after the Complainant receives this designation, the Complainant shall designate in writing to the Secretary of State the name of a second arbitrator. No later than 3 business days after designation by the Respondent of the second arbitrator, the two arbitrators so designated shall select a third arbitrator, to complete the panel.

D. As an alternative to the procedure set out in subsection C, the Secretary of State may retain a single, independent, professionally qualified person to act as an arbitrator, if the complainant consents in writing to his appointment as the arbitrator at the time of his appointment.

E. The arbitrator or arbitration panel may review the record compiled with the complaint, including the tape recording or any transcript of a hearing, if a hearing was requested and held, and any written or documentary evidence compiled by the Secretary of State's Office. The arbitrator or panel may request that the parties present additional briefs or memoranda. The arbitrator or panel may conduct the hearing as prescribed in VIII of this rule if no such hearing was held.

F. The arbitrator, or arbitration panel by majority vote, shall determine the appropriate resolution of the complaint by majority vote.

G. The arbitrator or panel shall issue a written resolution within 60 days after the issuance of the written order required in section X(A) of this rule, which period shall not be extended. The final resolution shall be transmitted to the Secretary of State and shall be the final resolution of the complaint. The Secretary of State shall mail the final resolution of the arbitrator or panel to the Complainant, each Respondent and any other interested person who has asked in writing to be advised of the final determination. It shall also be published on the Secretary of State's website at www.sos.state.ms.us.

H. The final determination of the arbitrator or arbitration panel is binding upon all the parties involved in the dispute and shall not be subject to appeal to any state or federal court.

Missouri

Rules of
Elected Officials
Division 30—Secretary of State
Chapter 12—Grievance Procedures

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Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 12—Grievance Procedures

15 CSR 30-12.010 Statewide HAVA Grievance Procedure

PURPOSE: This rule describes the procedure for the filing of an administrative complaint to remedy grievances concerning a violation of Title III of the Help America Vote Act of 2002.

(1) Any person who believes that there is a violation of any provision of Title III of the Help America Vote Act of 2002 (HAVA), 42 U.S.C. 15481 through 15485, (including a violation that has occurred, is occurring, or is about to occur), may file a complaint with the Elections Division of the Office of the Secretary of State.

(2) Any complaint filed under this rule must be written, signed, and sworn to before a notary public commissioned by the state of Missouri.

(3) Any complaint filed under this rule must be filed within thirty (30) days of the certification of the election in which the violation is alleged to have occurred.

(4) The complaint filed under section (1) of this rule shall state the following:
(A) The name and mailing address of the person or persons alleged to have committed the violation of Title III of HAVA described in the complaint;
(B) A description of the act or acts that the person filing the complaint believes is a violation of a provision of Title III of HAVA; and
(C) The nature of the injury suffered (or is about to be suffered) by the person filing the complaint.

(5) The Elections Division shall promptly provide a copy of the complaint by certified mail to:
(A) All persons identified as possible violators of the provisions of Title III of HAVA; and
(B) The election authority in whose jurisdiction the violation is alleged to have occurred.

(6) The Elections Division may consolidate complaints filed under this rule.

(7) Once a complaint has been properly filed under this rule, the secretary of state shall appoint a presiding officer who shall conduct an investigation of the complaint.

(8) At the request of the person filing the complaint, or if the presiding officer believes that the circumstances so dictate, the presiding officer shall conduct a hearing on the complaint and prepare a record on the hearing, such hearing to be conducted within ten (10) days of the request of the person filing the complaint.

(9) The presiding officer, upon completing the investigation, shall submit the results to the Elections Division, which shall then issue a written report. The Elections Division shall provide a copy of the report by certified mail to:
(A) The person who filed the complaint;
(B) The person or persons alleged to have committed the violation; and
(C) The election authority in whose jurisdiction the violation was alleged to have occurred.

(10) The report described in section (8) of this rule shall:
(A) Indicate the date when the complaint was received by the Elections Division;
(B) Contain findings of fact regarding the alleged violation and state whether a violation of Title III of HAVA has occurred;
(C) State what steps, if any, the person or persons alleged to have committed the violation has taken to correct the violation and/or to prevent any reoccurrence;
(D) Suggest any additional measures that could be taken to correct the violation;
(E) Indicate the date a violation was corrected or is expected to be corrected; and
(F) Provide any additional information or recommendations useful in resolving the complaint.

(11) If the Elections Division determines that there is a violation of any provision of Title III of HAVA, the Elections Division shall determine and provide the appropriate remedy, if authorized to do so. If the Elections Division determines that it is not authorized by law to provide the appropriate remedy, the Elections Division shall, if possible, refer the matter to the appropriate agency or office that has jurisdiction.

AUTHORITY: section 28.035, RSMo Supp. 2003. Original rule filed Sept. 19, 2003, effective May 30, 2004.*

**Original authority: 28.035, RSMo 2003.*

NEW HAMPSHIRE

I. Filing a Complaint

a. Anyone may report alleged violations of State or Federal election laws subject to enforcement by the Attorney General by submitting a completed Election Law Complaint Form.

b. The Election Law Complaint Form shall:

(1) Be written legibly and signed by the complainant;
(a) If the complaint relates to a violation of a right established by Title III of the Help America Vote Act of 2002, the complaint must be sworn to by the complainant in front of a Notary Public or Justice of the Peace.

(b) The Attorney General's Office and the Secretary of State's Office will provide Notary Public or Justice of the Peace services for an Election Law Complaint Form free of charge. Town Clerks, City Clerks, and other public officials who are Notaries Public or Justices of the Peace are encouraged to provide their services free of charge for the purpose of filing an Election Law Complaint Form.

(2) Contain a statement that an election official, a town/city/village district, a candidate, a political committee, an individual, or a corporation has violated a State election law or Federal election law subject to enforcement by the Attorney General and, if known, the requirement, statute, or regulation that has been violated;

(3) Contain a statement of the facts on which the complaint is based;

(4) Allege a violation that occurred not more than one year prior to the date the complaint is being submitted, unless a longer period is reasonable because the violation is continuing; and

(5) Identify by name, address, and phone number any known witnesses or other victims.

c. Any written communication satisfying the requirements set forth above shall constitute a complaint for the purposes of these procedures.

d. Complaints shall be mailed, faxed, or delivered to:

Attorney General
Civil Bureau
33 Capital Street
Concord, NH 03301
Fax (603) 271-2110

e. Complaints shall be considered filed on the date that they are received at the Attorney General's Office.

II. Investigation

a. The Attorney General or his designee will evaluate each complaint.
(1) If the complaint does not state a violation of any State or Federal election law subject to enforcement by the Attorney General, the complainant and the subject(s) of the complaint shall be notified in writing.

(2) If the complaint alleges a violation of any State or Federal election law subject to enforcement by the Attorney General, an inquiry shall be initiated.

b. Unless the nature of the allegation makes doing so inappropriate, an initial step in the inquiry will be to notify the subject of the complaint and afford the subject an opportunity to provide a response to the complaint.

c. The Attorney General's Office will publicly neither confirm nor deny the receipt of a complaint nor the existence of an investigation, unless doing so is deemed necessary to gather information or alert the public to a preventable hazard.

d. If the subject of the complaint elects to provide a response, upon receipt of the response, the complaint and response will be evaluated to determine if an investigation is necessary to resolve the complaint.

e. Complaints shall be resolved in one of the following ways:

(1) Criminal Prosecution - If a criminal penalty exists for the election law violation and the evidence and circumstances warrant criminal prosecution, the Attorney General, directly or through a County Attorney or Police Prosecutor, will prosecute the alleged offender.

(2) Civil Prosecution - If a civil penalty exists for the election law violation and the evidence and circumstances warrant imposition of a civil penalty, the Attorney General will pursue imposition of a civil penalty in accordance with applicable law.

(3) Cease and Desist Order - If the election law authorizes the Attorney General to issue a Cease and Desist Order and the evidence and circumstances warrant issuance of a Cease and Desist Order, the Attorney General will pursue issuance of a Cease and Desist Order in accordance with applicable law.

(4) Written Warning - If the election law does not provide for any penalty or if the evidence and circumstances support a conclusion that wrongdoing occurred, but the evidence and circumstances do not support or warrant a criminal prosecution, a civil penalty, or a cease and desist order, the Attorney General will issue a written warning if warranted.

(5) Closure Letter with Recommendations - If the evidence and circumstances do not warrant any of the above actions, but the Attorney General concludes that the subjects of the complaint failed to follow recommendations issued by the Secretary of State or the Attorney General or recognized best practices, the Attorney General may issue a Closure Letter to the subject of the complaint with recommendations for best practices.

(6) Closure Letter, Complaint Unfounded. If the evidence and circumstances support the conclusion that the subject of the complaint did not violate any election laws and followed the published recommendations of the Secretary of State and the Attorney General, the Attorney General will issue a Closure Letter declaring the complaint unfounded.

f. If the complaint involves a violation of a right established by Title III of the Help America Vote Act and the Attorney General determines that the complaint will be resolved by a criminal prosecution or civil penalty, the complainant shall be notified and afforded an opportunity to attend any public court sessions held to resolve the complaint.

g. If the complaint involves a violation of a right established by Title III of the Help America Vote Act and the Attorney General determines that the complaint will be resolved by a Cease and Desist Order, a Written Warning, Closure Letter with Recommendations or Closure Letter Complaint Unfounded, the complainant shall be issued a copy of the closure letter.

h. The complainant and the subject of the complaint shall have a right to request a hearing on the record before a hearing officer appointed by the Attorney General. The purpose of the hearing will be to afford the complainant, the subject, and the Assistant Attorney General who handled the matter to present evidence and arguments supporting resolution or arguing for an alternative resolution.

III. Hearing Process

a. Notice - The complainant or the subject of the complaint must file a written notice challenging the resolution with the Attorney General within 30 days of the date on which the documents announcing the resolution of the complaint are issued.

b. The Attorney General shall appoint a hearing officer who shall be a senior member of the Attorney General's Office who was not previously involved in any way in the investigation of the complaint, or a private attorney.

c. The Hearing Officer shall schedule a hearing within 30 days of the receipt by the Attorney General's Office of the written request for a hearing.

d. The Hearing Officer shall issue a notice of hearing that includes:

(1) Parties names and addresses;

(2) Date, time, and location of hearing;

(3) Statute(s) in question;

(4) A copy of the Cease and Desist Order, Written Warning, Closure letter with Recommendations or Closure letter concluding the matter was unfounded;

(5) A copy of the notice filed challenging the resolution;

(6) The consequence for failure to appear at the hearing as prescribed below; and

(7) The right of the parties to be represented by counsel at the hearing at their own expense.

e. The Hearing Officer shall issue a recommendation to the Attorney General either proposing a different resolution or affirming the previously issued resolution.

f. Hearing Record -

(1) The Attorney General shall cause the hearing to be recorded verbatim, and the recordings shall become part of the record.

(2) The Hearing Officer shall include in the record any documents submitted, and accepted as relevant, by the parties during the hearing

g. Procedural Rules - The hearing shall be conducted in conformance with Administrative Rules Chapter JUS 800.

h. Burden - Unless otherwise specified by law, the burden of proof shall be on the party challenging the original resolution.

i. Adjournment, Postponement, or Continuance - Adjournment, postponement, or continuance shall be directed, granted, or ordered for good cause shown, which shall include prejudice due to the inability of counsel or a critical witness to attend unless such inability is due to action or inaction on the part of the party. Notice of adjournment, postponement, or continuance shall be sent to all affected parties.

j. Failure to Request Continuance or Postponement, or to Appear - Failure to appear at any scheduled hearing, or to request for good cause a postponement or continuance of the hearing in advance thereof, shall be deemed to be a withdrawal of the complaint or waiver of right to be heard, as the case may be, and the challenge shall be closed, dismissed or a decision rendered.

k. Resolutions of complaints shall be made no later than 90 days from the receipt of the complaint (as required by 42 U.S.C. §15512(a)(2)(H)), unless the complainant has agreed to an extension.

l. If the complaint is not resolved in 90 days, upon receipt of a written request from the complaint the matter shall be submitted to the Ballot Law Commission.

IV. Complaint Form

ELECTION LAW COMPLAINT FORM
State of New Hampshire

Use this form to report a violation of Title III of the Help America Vote Act of 2002, or any New Hampshire Election laws

COMPLAINANT INFORMATION

Name _____ Home Phone _____ Work Phone _____

Address _____ County _____ Cell Phone _____

City _____ State _____ Zip Code _____

Email Address _____

PERSON, CANDIDATE, POLITICAL COMMITTEE, ELECTION OFFICIAL, TOWN, CITY, OR WARD DISTRICT AGAINST WHOM COMPLAINT IS BROUGHT

Name _____ Home Phone _____ Work Phone _____

Address _____ County _____ Cell Phone _____

City _____ State _____ Zip Code _____

Email Address _____

STATEMENT OF FACTS

Location of Violation _____

Date and Time of Violation _____

Please explain the basis for your complaint. If necessary, attach additional sheets.

_____

_____

_____

_____

Names and phone numbers of witnesses or other victims: _____

_____

_____

State or Federal Statute you believe was violated (if known) _____

SIGNATURE

By signing and filing this complaint, you are stating under penalty of law that the information you are providing is true and correct to the best of your knowledge.

Signature _____ Date _____

Below For *Federal Title III* Complaints ONLY:

THE STATE OF NEW HAMPSHIRE

_____, ss

On the _____ day of _____, 20__ before me, _____ *(Print name of Notary Public/Justice of the Peace)*, the undersigned officer, appeared _____, *(Print name of person whose signature is being notarized)* (known to me) (or satisfactorily proven)*(circle one)* to be the person whose name appears above, and s/he subscribed his/her name to the foregoing complaint and swore that the facts contained in this Affidavit are true to the best of his/her knowledge and belief.

_____

Notary Public/Justice of the Peace

My Commission expires: _____ *(seal)*

NEW JERSEY

C.19:61-6 Filing of complaint, procedure in Division of Elections, alternative procedure.

6. a. After January 1, 2004, any individual who believes that there is, has been, or will be a violation of any provision of Title III of Pub.L.107-252 (42 U.S.C. 15481 et seq.) may, pursuant to the procedures set forth in this section established in compliance with the provisions of section 402 of P.L.107-252 (42 U.S.C. 15512), file a complaint with the Division of Elections in the Department of Law and Public Safety seeking appropriate relief with respect to the violation.

b Each such complaint shall be in writing, and shall be notarized, signed, and sworn by the individual filing the complaint. The Attorney General may consolidate all such complaints if the Attorney General deems it appropriate.

c. (1) If, upon administrative inquiry, the Attorney General determines that there is, has been, or will be a violation of any provision of Title III of Pub.L.107-252 (42 U.S.C. 15481 et seq.), the Attorney General shall order appropriate relief. The complainant may request a hearing on the record, to be conducted in the manner provided for contested cases pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.); otherwise, the order of the Attorney General shall constitute final agency action on the matter and shall be subject to judicial review as provided in the Rules of Court.

(2) If, upon administrative inquiry, the Attorney General determines that there has been, is or will be no violation of any provision of Title III of Pub.L.107-252 (42 U.S.C.15481 et seq.), the Attorney General shall reject the claim of the violation and shall so notify the complainant. In that case, the complainant shall be afforded the opportunity for a hearing on the record in the manner provided for contested cases pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). Intervention in this hearing by any other person shall be as provided in the "Administrative Procedure Act." After review of the record of the hearing and the recommendation of the administrative law judge, the Attorney General shall affirm, reject or modify the decision. If, after a hearing, the Attorney General determines that there has been, is or will be a violation of any provision of Title III of Pub.L.107-252 (42 U.S.C. 15481 et seq.), the Attorney General shall order appropriate relief. If the complainant does not request a hearing following a determination of no violation based upon administrative inquiry or if the Attorney General determines after a hearing that there has been, is or will be no violation of any provision of Title III of Pub.L.107-252 (42 U.S.C. 15481 et seq.), the Attorney General shall dismiss the complaint and publish the results of the procedures. The decision of the Attorney General shall constitute final agency action on the matter, and shall be subject to judicial review as provided in the Rules of Court.

d. All complaints filed under this section shall be resolved finally by the Attorney General prior to the 90th day after the date that the complaint was filed, unless the complainant consents to a longer period for making such a determination.

e. If the Attorney General fails to meet the 90-day deadline provided in subsection d. of this section, the complaint shall be resolved within 60 days of that deadline under alternative dispute

resolution procedures established by the Attorney General for the purpose of this section. The record and other materials from any proceedings conducted under the complaint procedures established under this section shall be made available for use under the alternative dispute resolution procedures.

f. All of the procedures provided for by this section shall be applied uniformly and not in a manner that discriminates in any way against an individual based on that individual's gender, race, religion, ethnicity or sexual orientation.

g. An individual who believes that there is, or has been, or will be a violation of any provision of Title III of Pub.L.107-252 (42 U.S.C. 15481 et seq.) may, as an alternative to the procedures prescribed in subsections a. through f. of this section, file a complaint in the appropriate Superior Court seeking appropriate relief with respect to the violation. The complaint shall be resolved in an expedited manner.

New Mexico

TITLE 1 GENERAL GOVERNMENT ADMINISTRATION
CHAPTER 10 ELECTIONS AND ELECTED OFFICIALS
PART 18 ADMINISTRATIVE COMPLAINT PROCEDURE

1.10.18.1 ISSUING AGENCY: Office of the Secretary of State
[1.10.18.1 NMAC – N, 03-15-2004]

1.10.18.2 SCOPE: This rule applies to any statewide special election, general election, primary election, county-wide election or election to fill vacancies in the office of United States representative and regular or special school district elections as modified by the School Election Law (Sections 1-22-1 to 1-22-19 NMSA 1978).
[1.10.18.2 NMAC - N, 03-15-2004]

1.10.18.3 STATUTORY AUTHORITY: Election Code, Section 1-2-1 NMSA 1978, Section 1-2-2.1 NMSA 1978, Public Law 107-252, The Help America Vote Act of 2002. The issuing authority shall adopt rules for an administrative procedure for hearing complaints on violations of Title III of the Help America Vote Act of 2002, including provisions relating to voting system standards, provisional voting procedures, voter registration procedures and operational standards of the statewide voter registration system.
[1.10.18.3 NMAC - N 03-15-2004]

1.10.18.4 DURATION: Permanent
[1.10.18.4 NMAC - N, 03-15-2004]

1.10.18.5 EFFECTIVE DATE: March 15, 2004 unless a later date is cited at the end of a section.
[1.10.18.5 NMAC - N, 03-15-2004]

1.10.18.6 OBJECTIVE: The Election Code (Section 1-1-1 through 1-24-4 NMSA 1978) was amended by Chapter 356, Laws 2003. The purpose of the amendment is compliance with the provisions of PL 107-252, effective October 29, 2002, which requires New Mexico to establish a state-based administrative complaint procedure to remedy grievances under Title III of the Help America Vote Act.
[1.10.18.6 NMAC - N, 03-15-2004]

1.10.18.7 DEFINITIONS: Unless otherwise defined below, the terms used in these procedures share the same definitions and meanings as the HAVA Act.

A. **"Administrative procedures"** means the procedures stated in this rule. These procedures will be available in alternative languages and formats.

B. **"Bureau"** means the New Mexico secretary of state's bureau of elections.

C. **"Complaint form"** means a template form created by the bureau that will be available in hard copy in county clerk's offices. A copy will also be made available by mail and available on the office of the secretary of state's website.

D. **"HAVA"** means the Help America Vote Act of 2002 (Public Law 107-252).

E. **"HAVA Title III"** means the section of Public Law 107-252 titled "Uniform and Nondiscriminatory Election Technology and Administration Requirements".

F. **"HAVA Title III violation"** means an act contrary to a party's statutory rights regarding voting systems standards, provisional voting procedures, voter registration procedures, and operational standards of the statewide voter registration system as found in NMSA 1978, Section 1-2-2.1 and HAVA Title III. It does not mean non-Title III election law matters, such as a candidate's ballot access or campaign reporting requirements.
[1.10.18.7 NMAC - N, 03-15-2004]

1.10.18.8 INITIATING A COMPLAINT:

A. Any person who believes a HAVA Title III violation has occurred, is occurring, or is about to occur may file a written complaint, on the bureau's complaint form, that states the name of the alleged violator and a specific description of the alleged HAVA Title III violation.

B. The complaint must be signed and sworn or affirmed by the complainant and it must be notarized.

C. The complainant may check a box on the complaint requesting an on-the-record hearing or no hearing.

D. If the bureau determines that the complaint is incomplete, the bureau shall promptly notify the complainant who may be permitted to amend the complaint, in the sole discretion of the bureau.

E. If the bureau receives duplicative or repetitive complaints, the bureau may consolidate these for assessment, investigation and resolution purposes.

[1.10.18.8 NMAC - N, 03-15-2004]

1.10.18.9 INVESTIGATION OF A COMPLAINT:

A. The bureau shall aspire to complete an initial investigation within thirty (30) days of the bureau's receipt of the complaint. If the complaint is made against the bureau, a representative of the district attorney shall aspire to complete an initial investigation within the same time period.

B. The investigation may include the following steps as deemed appropriate under the circumstances: sending an acknowledgement letter to the complainant; seeking a response from the election official against whom a complaint is made; providing the complainant with a copy of any response received from the election official against whom a complaint is made and give the complainant an opportunity to reply; engaging in informal resolution with the parties through a meeting, teleconference, or other means; or dismissing the complaint based on its clear failure to allege a Title III violation.

C. All written documents that are part of these administrative procedures, including the investigation, are public documents unless otherwise provided by law.

[1.10.18.9 NMAC - N, 03-15-2004]

1.10.18.10 HEARING ON A COMPLAINT:

A. If the complainant requests a hearing and the bureau does not dismiss the complaint, the bureau will appoint a hearing officer to conduct a hearing on-the-record.

B. If the complainant did not request a hearing and the bureau does not dismiss the complaint, the bureau shall make a final determination in accordance with the remedies provision of these administrative procedures.

C. If the complaint is made against the bureau, the office of the secretary of state shall provide a neutral hearing officer who has no working or personal relationship with the office of the secretary of state.

D. For all other complaints, the office of the secretary of state shall provide a hearing officer. It may be, but is not limited to, an employee of the office of the secretary of state.

E. The bureau shall provide a time, date and location for the hearing and shall send written notice to complainant and alleged violator at least fifteen (15) days prior to the hearing. If there is an expedited hearing, the hearing officer shall provide telephonic and facsimile notice.

F. Upon written request to another party, any party may ask to obtain the names and addresses of witnesses who will or may be called by the other party to testify at the hearing and inspect and copy any documents that the other party will or may introduce in evidence at the hearing. The party to whom such a request is made should comply with it within ten (10) days after the receipt of the request. The hearing officer, however, has no statutory power to force the parties to comply with these requests.

G. If there is a hearing on the record, the record will include, at a minimum: the written complaint; written responses to the complaint; documentation provided in support of or in defense of the complaint; and written or audio record or any hearing or pre-hearing proceedings conducted by the hearing officer with regard to the complaint.

H. The hearing officer has the discretion to grant continuances, to take testimony or to examine witnesses. The hearing officer may also hold conferences before or during the hearing for the settlement or simplification of the issues.

I. The hearing officer may admit any evidence and may give probative effect to evidence that is of a kind commonly relied on by reasonably prudent people in the conduct of serious affairs. The hearing officer may, in his discretion, exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence.

J. The bureau shall provide a tape recording of any on-the-record hearing. If a party wants a court reporter, that party must pay the cost.

K. If a person who has requested a hearing does not appear, and no continuance has been granted, the hearing officer may hear the evidence of such witnesses as may have appeared, and the hearing officer may proceed to consider the matter and dispose of it on the basis of the evidence before it. Where, because of accident, sickness or other cause, a person fails to appear for a hearing that he has requested, the person may, within ten (10) days, apply in writing to the hearing officer to reopen the proceeding, and the hearing officer upon finding sufficient cause shall immediately fix a time and place for a hearing and give the person notice as required above.

[1.10.18.10 NMAC - N, 03-15-2004]

1.10.18.11 REMEDIES:

A. The hearing officer shall make a final determination regarding the complaint within ninety (90) days after the complaint has been filed with the bureau unless the complainant agrees in writing to extend the deadline.

B. If a party, agency or hearing officer would like to extend the deadline, it must receive written approval from the complainant. If the complainant does not give approval, the complainant will automatically proceed to alternative dispute resolution as found in the New Mexico Governmental Dispute Act, NMSA 1978, Sections 12-8A-1 through 12-8A-5. The office of the secretary of state, if not a party, must adopt the agreement reached by the parties to the alternative dispute resolution procedure within sixty (60) days after the complaint is referred to resolution.

C. The final determination shall be in writing and shall be sent by return receipt requested mail to the complainant and alleged violator.

D. The final determination may dismiss the case or provide a remedy appropriate to the violation. In no event shall the remedy involve either the payment of money to the complainant or a finding that an election official is subject to civil penalties. An appropriate remedy may include, but is not limited to any or all of the following: written finding that Title III has been violated; a plan for rectifying the particular violation, an assurance that additional training will be provided to election officials so as to ensure compliance with HAVA Title III and the New Mexico Election Code; and a commitment to better inform voters of their rights.

E. By posting a notice on its website and by distributing news releases as it deems appropriate, the office of the secretary of state shall publicize the results of its assessment and investigation of the complaint that results in a finding that a Title III violation has or has not occurred.

[1.10.18.11 NMAC - N, 03-15-2004]

1.10.18.12 RIGHT OF APPEAL: These procedures do not grant a statutory right of review.

[1.10.18.12 NMAC - N, 03-15-2004]

HISTORY of 1.10.18 NMAC: [Reserved]

ADMINISTRATIVE COMPLAINT FORM
(For Alleged Title III Violations of the Help America Vote Act)

Name of Complainant/Complaining Party

_____
Name

_____
Address

_____
City/Zip Code

_____
Contact Number

Description of Alleged Title III Violation (Including Alleged Violator/Witness)

_____
_____
_____
_____
_____
_____
_____
(Attach Additional Information or Documentation if necessary)

If needed, I would like to request:

☐ an on the record hearing.

☐ no hearing

_____
Complainant/Complaining Party

State of _____
County of _____

(Seal)

Subscribed and sworn or affirmed to me this _____ day of _____, 20__.

_____
Notary Public

My Commission Expires: _____

For additional information of the Administrative Complaint Procedure, please carefully review 1.10.18 NMAC available at www.sos.state.nm.us or in the office of the county clerk.

LAWS OF NEW YORK, 2005

CHAPTER 23

AN ACT to amend the election law, in relation to providing for an administrative complaint procedure pursuant to the Help America Vote Act of 2002

Became a law May 3, 2005, with the approval of the Governor.
Passed by a majority vote, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 16 of section 3-102 of the election law, as renumbered by chapter 659 of the laws of 1994, is renumbered subdivision 17 and a new subdivision 16 is added to read as follows:

16. administer the administrative complaint procedure as provided for in section 3-105 of this article.

§ 2. The election law is amended by adding a new section 3-105 to read as follows:

§ 3-105. Administrative complaint procedure. 1. The state board of elections shall establish and maintain a uniform, nondiscriminatory administrative complaint procedure pursuant to which any person who believes that there is a violation (including a violation which has occurred or is occurring or is about to occur) of any provision of title three of the federal Help America Vote Act of 2002 (HAVA), may file a complaint.

2. Initially, any such complaint may be made orally, in person or by telephone, or in writing. Such complaints may be made to the state board of elections or with any local board of elections. A toll-free number shall be made available therefor for telephone calls to the state board of elections. Complaints shall be addressed by election officials expediently and informally whenever possible.

3. All formal complaints shall be filed with the state board of elections. All formal complaints shall be written, signed and sworn by the complainant. The complainant shall use a complaint form promulgated by the state board of elections. The state board of elections or a local board of elections shall assist any person with a disability who requests assistance to file a complaint. Complaints raising similar questions of law and/or fact may be consolidated by the state board of elections.

4. Upon the written request of the complainant, there shall be a hearing on the record, unless prior to the hearing, the state board of elections, in accordance with subdivision four of section 3-100 of this article, sustains the formal complaint as being uncontested. Any party to the hearing may purchase a transcript of such hearing.

5. The evidentiary standard applied to all formal complaints shall be a preponderance of the evidence.

6. Hearings shall be conducted by a panel of two commissioners of the state board of elections of opposite parties or senior staff members of opposite parties as selected by the commissioners of that party. If the panel does not agree to sustain the complaint, the formal complaint

EXPLANATION--Matter in *italics* is new; matter in brackets [-] is old law to be omitted.

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shall be deemed dismissed and shall constitute the determination of the panel.

7. The determination of the hearing panel will be final unless changed by the state board of elections pursuant to subdivision four of section 3-100 of this article, within ninety days of the filing of the formal complaint. A final determination shall be filed and published by the state board of elections within ninety days after the filing of the formal complaint, unless the complainant agrees to a longer period of time. When a violation has been found, the final determination shall include an appropriate remedy for any violation of Title III of the Help America Vote Act of 2002 (HAVA) found by the state board of elections. A final determination dismissing a formal complaint may be filed by any one member of the hearing panel.

8. Whenever a final determination of a formal complaint is not made within ninety days, or any other longer agreed upon time period, the state board of elections shall refer the formal complaint to an independent, alternative dispute resolution agency. Such hearings and determinations shall be conducted by the alternative dispute resolution agency pursuant to regulations promulgated by the state board of elections pursuant to subdivision four of section 3-100 of this article. Such agency shall have sixty days, from the expiration of the original ninety day time period, or any other longer agreed upon time period, to make a final determination. The state board of elections shall contract, pursuant to subdivision four of section 3-100 of this article with one or more such alternative dispute resolution entities for this specific purpose.

9. No provision of this section shall be construed to impair or supersede the right of an aggrieved party to seek a judicial remedy including a judicial remedy concerning any final determination made pursuant to subdivision eight of this section. The state board of elections shall provide notice to all complainants of the provisions of this subdivision.

§ 3. This act shall take effect immediately.

The Legislature of the STATE OF NEW YORK ss:

Pursuant to the authority vested in us by section 70-b of the Public Officers Law, we hereby jointly certify that this slip copy of this session law was printed under our direction and, in accordance with such section, is entitled to be read into evidence.

JOSEPH L. BRUNO
Temporary President of the Senate

SHELDON SILVER
Speaker of the Assembly

Office of the Ohio Secretary of State

Election Complaint Procedure Adopted Pursuant to Section 402 of the *Help America Vote Act of 2002*

Section 1. Authority.

These complaint procedures are established as required by the *Help America Vote Act of 2002* [hereafter referred to as HAVA], P.L. 107-252, Section 402, and in accordance with the Ohio State Plan created pursuant to HAVA.

Section 2. Purpose.

These rules are promulgated to establish State-based uniform, nondiscriminatory administrative complaint procedures under which all complaints alleging violations of Title III of HAVA, sections 301 through 312, may be promptly and efficiently resolved and all complaints of merit will be appropriately remedied by the State of Ohio.

Section 3. Definitions.

As used in this complaint procedure, the following terms shall have the following meanings:

(A) "Complainant" means the person who files a complaint under this chapter.

(B) "Federal election" means a primary, special primary or general election at which a federal office appears on the ballot.

(C) "Respondent" means any state or local election official whose actions are asserted, in a complaint under this chapter, to be in violation of Title III.

(D) "State or local election official" means the Secretary of State, any member of a county board of elections, or any person employed by either the secretary or a county board of elections whose responsibilities include or directly relate to the administration of any federal election.

(E) "Title III" means Title III of the Help America Vote Act of 2002, Public Law 107-252, 116 Stat. 1666 (2002), codified at 42 United States Code §§15481-15485.

Section 4. Applicability.

(A) Any person who believes there is a violation of any provision of Title III of HAVA (including a violation which has occurred, is occurring, or is about to occur) may file a complaint.

(B) These procedures shall apply only to complaints raised under Title III of HAVA.

(C) Other complaints related to the conduct of elections shall be raised with the responsible public official(s), United States or Ohio prosecutors, or the Ohio Secretary of State as appropriate under 42 U.S.C. § 1973 et seq.; 42 U.S.C. § 12101 et seq.; 42 U.S.C. § 701; and other applicable laws.

Section 5. Form of Complaint.

(A) The complaint must be in writing and notarized, and signed and sworn to by the person filing the complaint. The complaint must set forth the complainant's name, mailing address and telephone

number, and each alleged violation of Title III of HAVA, and must include a clear and concise description of each alleged violation that is sufficiently detailed to apprise both the respondent and the decision maker of the nature of each alleged violation.

(B) The complaint may name witnesses to the alleged violation and include their written statements; may include documentary evidence supporting the allegations; and may also identify the sections, subsections, and paragraphs of HAVA alleged to have been violated.

(C) The Secretary of State shall establish a complaint form to be used, although complaints received in substantially the same form and meeting all the legal requirements of subsection (A), above, shall be accepted.

Section 6. Place and Method of Filing Complaints.

The complaint shall be filed, along with adequate proof of mailing or delivery of a copy of the complaint to each Respondent, with the Office of the Ohio Secretary of State, Elections Division, 180 E. Broad Street, 15th Floor, Columbus, Ohio 43215. Telephonic, electronic, and facsimile complaints will not be accepted. There is no fee for filing a complaint.

Section 7. Service of Papers on all Parties.

(A) When a complaint alleges violations by a county board of elections, the Secretary of State or the Secretary's designee shall promptly transmit a copy of the complaint to the county board of elections and permit the board to respond on its own behalf.

(B) A copy of each piece of correspondence between the complainant or the county board of elections and the Secretary of State, the Secretary's designee, or the hearing officer, shall be filed with the Office of the Secretary of State. Copies of the correspondence and filings shall simultaneously be mailed to the hearing officer, if his or her identity and address are known, and to the opposing party, if any.

Section 8. Maintenance and Confidentiality of Official Agency Record.

(A) The Secretary of State shall be the official custodian of the record of each complaint.

(B) The record shall contain:
- (1) A copy of the complaint, including any amendments made with the permission of the Secretary of State or the Secretary's designee;
- (2) A copy of any written submissions by the complainant, respondents, or other interested persons, including any responses or replies thereto permitted under the schedule or by the Secretary of State or the Secretary's designee;
- (3) Copies of all notices and correspondence with regard to the complaint;
- (4) Originals or copies of any tangible evidence produced;
- (5) The results of any investigation conducted;
- (6) Other documents received or generated by the Secretary of State, his or her designee, or the hearing officer, concerning the substance and/or procedure applied to resolution of the complaint; and
- (7) A copy of any final determination made regarding the complaint.

(C) All records are confidential until there is a final resolution of each complaint. If the complainant makes a timely request for a hearing, the record shall be confidential until the hearing is finally resolved.

Section 9. Initial Screening.

(A) The complaint shall be screened by the Secretary of State or a person designated by the Secretary to determine if it meets the criteria in HAVA and these rules.

(B) The Secretary of State or the Secretary's designee shall examine each complaint and may reject it for filing if:
- (1) The complaint is not signed and notarized under oath;
- (2) The complaint does not identify the complainant or include an adequate mailing address;
- (3) The complaint does not allege on its face a violation of Title III with regard to a federal election; or
- (4) More than 90 days have elapsed since the final certification of the federal election at issue.

(C) If the complaint does not meet the criteria in HAVA and these rules as stated herein, it shall be dismissed, although it may also be referred to other appropriate authorities.

(D) If the complaint is dismissed, a designee of the Secretary of State shall send notice of the dismissal and a copy of these rules to the complainant. The notice shall advise the complainant that he or she is not precluded from refiling a complaint which conforms to the legal requirements.

(E) The Secretary of State or the Secretary's designee shall do all the following:
- (1) Take all necessary steps to prepare the complaint for determination;
- (2) In coordination with the parties, shall establish a schedule under which the complainant and respondent or respondents, as well as any other interested persons, may file any written submissions concerning the complaint, and under which the complaint shall be finally determined;
- (3) Provide copies of the official record to the decision maker in a timely manner.

(F) When the Secretary of State, or any employee of the Secretary, is a Respondent, the functions assigned to the Secretary under this administration procedure shall, to the greatest extent possible, be performed by individuals not directly involved in the facts giving rise to the complaint.

Section 10. Consolidation of Complaints.

The Secretary of State or the Secretary's designee may consolidate complaints and resolve them together if they relate to the same actions or events, or if they raise common questions of law or fact, or if the Secretary or the Secretary's designee otherwise deem such consolidation appropriate.

Section 11. Administrative Resolution.

(A) Complaints filed pursuant to this procedure shall be heard and determined by the Secretary of State or the Secretary's designee, and that determination shall be final.

(B) Following the initial screening, complaints shall be resolved informally if possible. Complaints shall be evaluated, and a decision rendered, based upon the written submissions, unless the complainant requests a hearing on the record. A request must be made in writing to the secretary of state no later than 10 days after the filing of the complaint, or in the original complaint itself, but not in any amendment filed more than 10 days after the original complaint.

(C) The Secretary of State or the Secretary's designee shall take all necessary steps to prepare the complaint for determination and, in coordination with the parties, shall establish a schedule under which the complainant and respondent or respondents, as well as any other interested persons, may file any written submissions concerning the complaint, and under which the complaint shall be finally determined.

(D) The Secretary of State or the Secretary's designee shall consider all information filed and shall conduct an informal investigation of the complaint as appropriate, including contacting the persons alleged to have violated HAVA or alleged to be about to violate HAVA.

(E) Based on the agency record, the Secretary of State or the Secretary's designee may enter a decision and order, which may include an appropriate remedy. When the decision is that no violation of HAVA, Title III, has or is about to occur, the complaint shall be dismissed and the results of the procedures published on the website of the Office of the Secretary of State.

(F) The Secretary of State or the Secretary's designee shall send the decision and order to the complainant by appropriate means including proof of delivery to the address provided by the complainant.

(G) The Secretary of State or the Secretary's designee simultaneously shall send a copy of the decision and order to the election official, if any, who was alleged, directly or indirectly, to have violated or be about to violate Title III of HAVA.

(H) Along with the decision and order, the Secretary of State or the Secretary's designee shall notify the complainant of his or her right to request a hearing on the record if not satisfied. The request shall be in writing and received within 10 calendar days after the complainant's receipt of the decision and order. Such requests may be submitted by facsimile or e-mail as well.

Section 12. Administrative Hearing.

(A) An informal administrative hearing shall be conducted following timely receipt of a written request for a hearing on the record in accordance with Section 11(B) of this procedure.

(B) The Secretary of State or the Secretary's designee shall promptly establish a date, time, and location for the hearing. The hearing shall occur within a reasonable period of time. The hearing shall be open to the public.

(C) The Secretary of State or the Secretary's designee shall provide not less than five days notice of the hearing to the complainant, each respondent, and any other person who has requested notice in writing. Notice shall be provided by mail and by posting on the Secretary of State's Web site, and by such other means as the Secretary deems appropriate.

(D) The Secretary of State may preside over the hearing or may designate a hearing officer to conduct the matter and to prepare a recommended decision and order.

(E) Any complainant, respondent, or other person may file a written brief or memorandum within five business days of the conclusion of the hearing, but no responsive brief or memoranda will be accepted without authorization of the Secretary of State or the hearing officer.

(F) The Ohio Administrative Procedure Act, the Ohio Rules of Civil Procedure, the Ohio Rules of Evidence, and the Ohio Rules of Appellate Procedure shall not apply to these proceedings.

Section 13. Objectives and Procedure of Administrative Hearing.

(A) The Secretary of State or the hearing officer has considerable discretion in how the hearing is conducted, although the overriding consideration is to provide a speedy, fair and efficient method by which the parties may be heard and the matter decided in order to support and effectuate the letter and spirit of HAVA.

(B) The Secretary of State or the hearing officer shall have a copy of the record of the complaint(s) to be heard.

(C) The Secretary of State or the hearing officer shall introduce the matter on the record and explain the procedures to be followed.

(D) The complainant, any respondent, or any other interested member of the public may appear at the hearing and testify or present tangible evidence in connection with the complaint. Each witness shall be sworn. A complainant, respondent, or other person may, but need not, be represented by an attorney.

(E) The hearing officer may limit the testimony, if necessary, to ensure that all interested participants are able to present their views or to assure completion of the hearing within a reasonable time.

(F) The hearing officer may recess the hearing and reconvene at a later date, time, and place announced publicly at the hearing.

(G) The Secretary of State or the hearing officer may participate during the presentations of the parties at any time.

(H) At the conclusion of the hearing, the Secretary of State or the hearing officer shall take the matter under advisement and promptly prepare or recommend a decision and order for the Secretary of State.

Section 14. Recording of Administrative Hearing.

An audio recording shall be made of the proceedings. The Secretary of State is obligated to prepare a transcript of the audio recording, but such a transcript shall be prepared at the expense of the person requesting the transcript.

If any party prefers to have a court reporter record the proceedings, he or she may do so at his or her own expense.

Section 15. Special Accommodations at the Administrative Hearing.

Individuals with disabilities shall inform the Secretary of State or his or her designee at least 5 business days before the informal hearing of any special accommodations they require. They may have people assist them and speak for them as desired.

Section 16. Final Decision.

(A) The Secretary of State retains authority on behalf of the State of Ohio to make the final decision in each instance from the initial screening through a hearing on the record. The Secretary of State's determination shall be final and shall not be subject to judicial review.

(B) The Secretary of State shall determine whether, under a preponderance of the evidence, a violation of Title III has been established. If the Secretary determines that a violation has occurred, then a written determination shall be issued specifying the appropriate remedy. If the Secretary determines that no violation has been established, the complaint shall be dismissed.

(C) Upon deciding a meritorious complaint, the Secretary of State shall order an appropriate remedy.

(D) Upon the Secretary of State's entry of the final decision and order into the record, the Secretary shall also deliver the decision and order to the complainant by appropriate means, including proof of delivery, to the address provided by the complainant and to the other parties, if any.

(E) If the final decision and order result in the dismissal of the complaint, the result of the procedures shall be published on the website of the Secretary of State.

Section 17. Appropriate Remedies.

(A) The Secretary of State has discretion to determine the nature of an appropriate remedy when a complaint has led to the establishment of a violation of Title III of HAVA.

(B) An appropriate remedy may detail actions to be taken or procedures to be followed by election officials, and it may include a corrective action plan.

(C) The officials required to take the corrective action shall report to the Secretary of State or his designee the steps taken in accordance with the requirements and schedule provided in the decision and order.

(D) Appropriate remedies are limited to those which are designed to assure compliance with Title III of HAVA. The remedy may not include any award of monetary damages, costs, or attorney fees, and may not include the invalidation of any primary or election or a determination of the validity of any ballot or vote. Remedies addressing the validity of any primary or election or of any ballot or vote may be obtained only as otherwise provided by law.

(E) A complaint filed pursuant to this chapter does not constitute an election contest pursuant to sections 3515.08 through 3515.16, inclusive, of the Revised Code of Ohio.

Section 18. Time Allowed for Entire Process.

(A) The State has 90 days within which to make a final determination with respect to a complaint. The period begins with the date of the filing of the complaint.

(B) The time limit may be extended only with consent of the complainant and all opposing parties, if there are any.

(C) When multiple complaints that have been consolidated, all deadlines in these rules shall be determined by the date the last complaint was filed.

(D) When multiple complaints have been consolidated, an extension of time shall apply only to those complainants who have consented to the extension of time.

(E) Consent for an extension of time shall be in writing and filed with the Secretary of State before the 90-day period expires.

(F) The Secretary of State or the hearing officer is authorized to grant reasonable extensions of time at the request of the parties as qualified above.

Section 19. Results of Failure to Conclude the Hearing Process within the Time Allowed.

(A) When a complaint has not been finally resolved within the 90-day period, the Secretary of State must refer the complaint to the local bar association, state bar association, or a third party certified Alternative Dispute Resolution (ADR) professional to be resolved within 60 days under alternative dispute resolution procedures. The decision as to which of these to employ will be decided on a case-by-case basis which will take into account the convenience of all interested parties as well as the efficiency of the process.

(B) When complaints have been consolidated and some complainants have not consented to an extension of the 90-day deadline, their complaints shall be subject to separation from the others and treatment under this section.

(C) The person designated to provide the ADR, hereafter referred to as the ADR hearing officer, shall have a copy of the agency record of the proceedings.

(D) With one exception, the ADR hearing officer shall adhere to this Election Complaint Procedure in resolving the complaint. The exception is that the ADR hearing officer may conduct an administrative hearing in accordance with the hearing procedures set forth in sections 119.07 through 119.13 of the Revised Code of Ohio, with time lines adjusted to fit the time allowed. Conduct of the hearing in accordance with these procedures does not alter the authority of the Secretary of State as the final decision maker.

(E) The ADR hearing officer shall conclude the matter as expeditiously as possible and shall forward his or her recommended decision and order to the Secretary of State within the time allowed by the Secretary of State.

(F) The Secretary of State shall enter the final decision and order no later than 60 calendar days after the expiration of the 90-day period.

###

SoS Form No. ____ (2004-05)

ADMINISTRATIVE COMPLAINT FORM

This form may be used by any person alleging a violation of Title III of the *Help America Vote Act of 2002* (42 U.S.C. §15481-15485)

Mail or hand-deliver the signed and notarized complaint to:

Office of the Ohio Secretary of State
Election Reform Division
180 E. Broad Street, 15th Floor
Columbus, OH 43215

For Ohio Secretary of State Use Only

Complaint cannot be filed by fax or e-mail.

Please type or print all information.

PERSON BRINGING COMPLAINT

Name _____

Street Address _____

City _____ County _____ State ___ Zip Code _____

Daytime Tel. _____ E-mail address: _____

PERSON OR ENTITY AGAINST WHOM COMPLAINT IS BROUGHT (One person/entity per form)

Name _____

Street Address _____

City _____ County _____ State ___ Zip Code _____

Daytime Tel. _____ E-mail address: _____

VIOLATION ALLEGED

Section of Title III of the *Help America Vote Act of 2002* allegedly violated: _____

Date alleged violation occurred: _____

Please explain in detail the facts on which the complaint is based. If necessary, attach additional sheets, properly notarized.

_____

_____

_____

_____

_____

_____

Would you like the Secretary of State to conduct a hearing on the record? ☐ Yes ☐ No

IMPORTANT: TO BE CONSIDERED, THIS COMPLAINT MUST BE PROPERLY SWORN, SIGNED AND NOTARIZED.

State of Ohio, County of _____ ss:

_____
Signature of Complainant

Sworn to and subscribed in my presence by _____, this _____ day of _____, 20___, in the City of _____, County of _____, State of Ohio.

_____
Signature of Notary Public of the State of Ohio
My Commission expires _____

WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE.

OREGON

HAVA Complaint Procedures
OAR 165-001-0090

(1) The purpose of this rule is to adopt procedures for the receipt and disposition of complaints filed with the Secretary of State, Elections Division alleging violations of Title III of the Help America Vote Act of 2002 (HAVA). The rule is intended to fully comply with all federal requirements for the complaint procedure, as described in Section 402 of HAVA (P.L. 107-252).

(2) The procedures described in this rule are to be used solely for complaints filed alleging a violation of Title III of HAVA. Title III includes voting system standards, accessibility of voting systems to persons with disabilities, instructions on correcting voting errors, identification requirements for voting in federal elections if registration was by mail, computerized voter registration, contents of registration forms and provisional voting.

(3) State and county elections officials are encouraged to resolve HAVA complaints informally if possible. If informal resolution is not possible, and a person wishes to file a formal HAVA complaint under this procedure, the person shall use the HAVA complaint form (SEL 820). The complaint will be accepted and processed only if made in writing, signed under oath by the person filing the complaint, and notarized. The complaint form must be filed directly with the Secretary of State, Elections Division. If the complaint is submitted to a county elections office, the county elections official shall promptly forward the original complaint to the Elections Division. The complaint shall be considered filed on the day it is received at the office of the Elections Division.

(4) Upon receipt of a complaint, the Elections Division staff will review the complaint to determine if it alleges a violation of Title III of HAVA. If the complaint does not allege a violation of Title III, the complaint will be dismissed, with a letter provided to the complainant explaining the reason for the dismissal. If the complaint alleges a violation of Title III, the complaint will be acknowledged in writing, and the complainant will be offered the opportunity to request a hearing on the record. A hearing on the record may be provided by telephone or in person. The Elections Division staff will then request information from other persons who may have information related to the substance of the complaint. When the responses are received, copies will be sent to the complainant to provide an opportunity for the complainant to respond or rebut the information provided. Unless the complainant requested a hearing on the record, or the Elections Division chooses to provide such a hearing because of the nature of the allegations and responses, the Division will prepare a determination letter based on the information provided. The determination letter will address whether any violation of Title III has occurred and address how to resolve the problem to avoid its occurrence in the future.

(5) If a hearing on the record is scheduled, the Division will decide whether the hearing is to be conducted by telephone or in-person. The complainant and other persons who have relevant information to provide will be invited to participate. The hearing will be conducted before an Elections Division employee. The purpose of the hearing is to determine whether any procedure required by Title III was not correctly followed, and to develop a plan to make sure the violation, if any, does not happen again. The hearing is to be conducted as a fact-finding, problem solving forum. A record must be kept, including copies of any documents submitted and minutes, a tape or other record of the hearing.

(6) Whether the complaint is resolved through the procedures of subsections (4) or (5) of this rule, the final determination will be prepared by the Elections Division. If the outcome of the proceeding requires the provision of a remedy, the remedy must conform to state elections law and will not include financial payments to complainants or civil penalties against other involved individuals. Remedies may include written findings that a violation of Title III has occurred, strategies for insuring that that violation does not occur again, and, if it appears that the complaint involves a systemic problem, possible actions by the Elections Division to provide better instructions, training or procedures to all election officials to avoid future violations.

(7) Final determination letters will be signed by the Secretary of State or Deputy Secretary of State. All determination letters will be posted on the Division's website. A copy of the final determination will be

provided to the complainant and to any other persons who provided information or participated in a hearing.

(8) The Division will handle all complaints filed under this rule in a way that allows a final determination to be issued within 90 days of the receipt of the complaint. If delays appear to put the 90 day deadline at risk, the Division may ask the complainant to provide an extension to complete the investigation or to conduct the hearing. If the complainant does not agree to provide an extension, the final determination must either be issued within the 90 days, or the matter must be referred to the dispute resolution process described in subsection (9).

(9) The Division will provide an alternative dispute resolution process for complaints that are not resolved within 90 days of the filing of the complaint (unless an extension is granted by the complainant) or for complaints that the Division, in its sole discretion, determine warrant this level of review. The alternative dispute resolution process is intended to be a consensus or cooperative outcome procedure, not an arbitration or mediation process model with adversaries or parties. The Division will select a person from a panel of volunteers who agree to provide their services to convene a meeting of the interested parties to resolve a particular complaint or complaints. The panel member will then recommend an outcome to the Secretary, to be adopted within 60 days of the referral. The Secretary will adopt the recommendation, or a revised version of the recommendation, as appropriate. Final determinations reached following this alternative dispute resolution process shall be publicized and distributed in the manner described in subsection (7) of this rule.

SEL 820
rev. 8/03

HELP AMERICA VOTE ACT (HAVA) COMPLAINT FORM
(For filing complaints alleging possible violations of HAVA Title III)

(Refer to information pages about HAVA Title III requirements and complaints provided by Elections Division.)

Filed by (name and address):	**Filed against:**

Cite specific HAVA Title III section and requirement you believe has been violated (see table of HAVA Title III requirements provided by Secretary of State, Elections Division):

Allegations: Include specific information as to what, where, by whom, how, why and when, as applicable. **Note:** Attach any appropriate documentation/evidence.

(For additional space, use reverse side of this form.)

Verification upon Oath or Affirmation (including information on both sides of this form and any attachments.) By signing this document, I hereby state:
That all information provided by me on this form and in the attached statement, is true to the best of my knowledge;

by _____
(Complainant's signature)

State of OREGON

County of _____

Signed and sworn to (or affirmed) before me on _____, 20____
(month and day)

_____
Notary Public – State of Oregon

NOTE: File this form with the **Oregon Secretary of State, Elections Division,** Rm. 141, State Capitol Bldg., Salem, OR 97310-0722, phone (503) 986-1518, fax no. (503) 373-7414

Office Use Only:	**Date Stamp:**
Complaint # _____ Date received: _____ Ack. letter: _____	

SEL 820
rev. 8/03

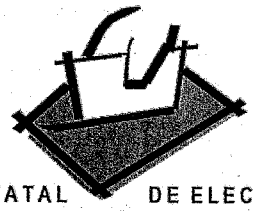
HELP AMERICA VOTE ACT (HAVA) COMPLAINT FORM
(For filing complaints alleging possible violations of HAVA Title III)

(Refer to information pages about HAVA Title III requirements and complaints provided by Elections Division.)

(Continued from front page)

Allegations: Include specific information as to what, where, by whom, how, why and when, as applicable. **Note:** Attach any appropriate documentation/evidence.

Note: This is the back of form SEL 820. In order for this complaint to be submitted, the front side must be completed with the complainant's signature notarized.



COMISION ESTATAL DE ELECCIONES
ESTADO LIBRE ASOCIADO DE PUERTO RICO

COMPLAINT PROCEDURE TO THE ELECTION LAW RULES AND REGULATIONS

Please note the Spanish version is the official version; the English version is provided as a courtesy. If there are any discrepancies in meaning between the two versions, the Spanish version will prevail.

Approved: October 13, 2004

COMPLAINT PROCEDURES
ADOPTED OCTOBER 2004

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COMPLAINT PROCEDURES
ADOPTED OCTOBER 2004

ELECTIONS COMMISSION OF PUERTO RICO (CEE) COMPLAINT PROCEDURE RULES AND REGULATIONS

TITLE I PRELIMINARY DISPOSITIONS

SECTION 1.1 AUTHORITY

This procedure is adopted and promulgated in accordance with the powers conferred upon the Commonwealth of Puerto Rico Elections Commission (Elections Commission) in articles 1005 sections (e) and (l), and 1007 of the law No.4 of December 20, 1977 as amended, also known as "Election Law of Puerto Rico"

SECTION 1.2 PURPOSES

The purpose of this procedure is to establish the administrative procedure to attend to, investigate and resolve all complaints submitted to the Elections Commission by any interested party and could constitute an infraction to the election law.

SECTION 1.3 DEFINITIONS

All definitions contained in article 1003 of the Election Law of Puerto Rico that are applicable to this procedure are incorporated here.

For the purposes of this procedure the following terms will be understood as expressed:

1.- **EVALUATION COMMITTEE**: Group of evaluators appointed to represent the Elections Commission and the President to examine and investigate complaints.
2.- **FILE**: All documents included in and related to the complaint.
3.- **ELECTION LAW:** Includes Law No.4 of December 20, 1977 as amended, also known as Election Law of Puerto Rico, rules and regulations, approved resolutions by the Elections Commission, supplementary approved laws by the Legislative Assembly and the applicable federal laws.
4.- **COMPLAINT**: Any allegation made in writing and under oath by a complainant denoting acts, conduct or omissions that could constitute an infraction of the applicable election law.
5.-**COMPLAINANT:** Any voter, candidate, political party, natural or legal entity who alleges that an act, conduct or omission of acts that could constitute an infraction to the applicable election law is or has been committed.
6.- **ACCUSED**: Any voter, candidate, political party, natural or legal entity who is denounced by means of a complaint in the commission of acts, conduct or omission of acts that could constitute an infraction of the applicable election law.

SECTION 1.4 APPLICABILTY AND REACH

All dispositions of this procedure are applicable to voters, candidates, political parties and natural and legal entities.

TITLE II EVALUATION COMMITTEE

SECTION 2.1 APPOINTMENTS

In accordance with the dispositions of article 1005 section (e) of the Election Law, an Evaluation Committee is created and composed of one evaluator representing each Elections Commissioner and one representing the President, who will serve as the head of the Evaluation Committee.

SECTION 2.2 ROLES

The Evaluation Committee will be entrusted to examine the complaints presented, formulate assessments and submit the corresponding recommendations to the Elections Commission.

SECTION 2.3 EVALUATION COMMITTEE QUORUM AND RESOLUTIONS

The participation of at least two (2) Election Commissioner representatives and the representative of the President will constitute quorum for all work.

The Evaluation Committee recommendations must be adopted by unanimous vote of all representatives of the Election Commissioners present at the time of evaluation.

In all matters considered by the Evaluation Committee if the Evaluation Committee fails to reach a unanimous vote, the representative of the President, will decide, this being the only time or circumstance in which he/she may vote. This decision will be considered as the Committee's ruling.

Any member of the Committee who opposes the ruling to be submitted in the Recommendation Report can record a separate vote, which will be included as part of the file to be presented to the Elections Commission.

SECTION 2.4 TERM TO SUBMIT THE REPORT TO THE ELECTIONS COMMISSION

The Evaluation Committee after reviewing the complaint, and no later than fifteen (15) days after the Elections Commission Secretary received the file, must submit a report with all recommendations to the Elections Commission Secretariat to be considered in the next ordinary session of the Elections Commission. As Election Day nears, the maximum time for review by the Evaluation Committee will be shortened as directed by article 1007 section (b) of the Election Law of Puerto Rico.

SECTION 2.5 REACH OF RECOMMENDATIONS

The recommendations in the report to the Elections Commission may include but are not limited to: (1) proceed to close the complaint without further need for action; (2) submit to the Puerto Rico Department of Justice or the appropriate Administrative body; (3) proceed according to the law against the accused; (4) submit a recommendation to the Elections Commission for remedy of a violation; (5) recommend to the Elections Commission that they further investigate the complaint. In the last case, the complaint will be pending resolution until the end of the evaluation recommended by the Elections Commission.

SECTION 2.6 FOUNDATIONS FOR RECOMMENDING THE ARCHIVING OF COMPLAINTS

At any stage of the procedure, the following will constitute valid reasons to recommend the closing of a complaint without further need for action:

1.- The complaint does not refer to facts that could constitute an infraction of law.
2.- Due to the nature of the alleged acts, omissions or conduct, the Elections Commission lacks jurisdiction in the matter.
3.- An anonymous complaint or a complaint filed using a pseudonym or when a complaint is filed under the name of a natural person without his/her knowledge and consent.
4.- When the written complaint includes foul language, insults, or obscenity.
5.- When the complainant refuses to appear before the Evaluation Committee or to cooperate by presenting necessary and/or required information.
6.-The complaint is considered finalized when it has been heard and resolved by the Elections Commission, or by the competent court or administrative body with legal right to resolve it.
7.- The substance of the complaint is in process before a competent court or administrative body with legal right to resolve it.

The Elections Commission's recommendations or determinations concerning complaints of alleged violations will be published.

SECTION 2.7 INTERVENTION BY THE ELECTIONS COMMISSION

The Elections Commission, after evaluating the Evaluation Committee report, may accept, modify, revoke, return for re-evaluation, propose or require a remedy, or release a lawful decision. When circumstances justify, the Elections Commission may ignore the investigation, proceedings and/or recommendation of the Evaluation Committee, when they decide a matter.

SECTION 2.8 TERM TO TAKE ACTION

Once the report is submitted to the Elections Commission, it must take action within fifteen (15) days. If the Elections Commission does not take any of the actions

mentioned in section 2.7, within the prescribed term, it will be assumed that the Elections Commission has reviewed the report and agrees with the recommended decision. In this case, the decision will be considered as the Elections Commission's decision and must be enforced within the following five (5) days. As Election Day nears, the maximum time for review for Elections Commission action will be shortened as directed by article 1007 section (b) of the Election Law of Puerto Rico.

TITLE III COMPLAINTS

SECTION 3.1 FILING OF THE COMPLAINT AND NOTIFICATION

All complaints shall be presented to the Elections Commission's Secretariat in original with five (5) additional copies. The Secretary will open a file, assign it a number and notify both parties, complainant and accused, providing them with a copy of the complaint.

The Secretary will present the file to the President of the Evaluation Committee within twenty four (24) hours after receiving it. Once the President has received it, he/she shall call on the Evaluation Committee to meet within the following seventy two (72) hours, to initiate the evaluation process.

SECTION 3.2 COMPLAINT CONTENT

All complaints must be presented in writing and must include:

1.- Accused's name and address.

2.- Complainant's name, address and signature.

3.- A concise statement of facts that supposedly could constitute a violation of election law. All supporting documents that sustain the basis of the complaint should be included.

4.- Notarized statement under oath indicating that all facts are true and of personal knowledge.

SECTION 3.3 COMPLAINTS THAT DO NOT MEET THE REQUIREMENTS

For those complaints that do not meet the previous requirements, the Secretary will assign a file number and notify the complainant giving him/her ten (10) days to comply with the requirements, advising him/her that if he/she does not comply within the period, the complaint will be rejected. The Secretary will keep the file until the requirements are met or until the complaint is discarded for non-compliance.

TITLE IV APPEARANCE BEFORE EVALUATION COMMITTEE

SECTION 4.1 SUMMONS OF APPEARANCE

In order to investigate the complaint, the Evaluation Committee, through the Elections Commission, may require the appearance before the Evaluation Committee of any person, including the complainant. The summons of appearance may include the obligation to provide reports or related documents.

SECTION 4.2 HEARING ON THE RECORD

At the request of any complainant, there shall be a hearing on the record.

TITLE V GENERAL DISPOSITIONS

SECTION 5.1 COMPLAINTS FROM THE ELECTORAL COMMISSIONERS

This procedure is not applicable to the members of the Elections Commission; any complaints they have should be discussed and resolved among the Elections Commission, as otherwise according to the law.

SECTION 5.2 CONFIDENTIALITY

Complaint files will be considered private documents from the time they are filed until a decision by the Elections Commission.

SECTION 5.3 PENALTIES

Any person that is found to have knowingly and fraudulently acted in violation of this procedure will be sanctioned according article 8005 of the Election Law of Puerto Rico, which establishes a maximum of three (3) months in jail or a maximum fine of three hundred US dollars (US$300.00), or both at the Tribunal's discretion.

SECTION 5.4 TERM VARIATIONS

The terms established in this procedure not prescribed in the Election Law of Puerto Rico, could be modified by the Elections Commission in special cases and with justified reason.

SECTION 5.5 AMENDMENTS OF THE PROCEDURE

This procedure may be amended by the Elections Commission at any convenient time deemed beneficial for a better enforcement of the Election Law of Puerto Rico.

SECTION 5.6 INDEPENDENCE

If any title, article, section, part, paragraph or clause of this procedure were to be declared unconstitutional by a competent court, the judgment in that effect will not affect or invalidate the rest of its content.

COMPLAINT PROCEDURES
ADOPTED OCTOBER 2004

SECTION 5.7 VALIDITY

This procedure will be in effect once the requisites stated in Article 1005 section (l) are met that require prior notification of the Governor of Puerto Rico and the Legislative Assembly through publication to that effect for two (2) times in a period of two (2) weeks in two (2) newspapers of general circulation.

Signed in San Juan, Puerto Rico on October 13, 2004.

AURELIO GRACIA MORALES
President

GERARDO A. CRUZ MALDONADO
Electoral Commissioner PPD

THOMAS RIVERA SCHATZ
Electoral Commissioner PNP

JUAN DALMAU RAMIREZ
Alternate Electoral Commissioner PIP

CERTIFICATE:
This procedure was approved by the Commonwealth Elections Commission in ordinary session held on the 13 of October, 2004. I herby certify in San Juan, Puerto Rico on October 20, 2004.

RAMON M. JIMENEZ FUENTES
Secretary

TITULO I

DISPOSICIONES PRELIMINARES

Sección 1.1- AUTORIDAD

Este Reglamento se adopta y promulga de acuerdo con los poderes conferidos a la Comisión Estatal de Elecciones de Puerto Rico por los Artículos 1.005 Incisos (e) y (l) y 1.007 de la Ley Núm. 4 del 20 de diciembre de 1977, según enmendada, conocida como la "Ley Electoral de Puerto Rico".

Sección 1.2- DECLARACION DE PROPÓSITOS

Este Reglamento tiene como propósito el establecer un procedimiento administrativo para atender, investigar y resolver las querellas que se sometan a la consideración de la Comisión Estatal de Elecciones por cualquier parte interesada y que puedan constituir infracciones al ordenamiento electoral.

Sección 1.3- DEFINICIONES

Se incorporan a este Reglamento las definiciones que resulten aplicables de las contenidas en el Artículo 1.003 de la Ley Electoral de Puerto Rico.

A estos efectos de este Reglamento los siguientes términos tendrán los significados que a continuación se expresan:

1. **Comité Evaluador** - Un grupo de examinadores designados en representación de los Comisionados Electorales y del Presidente para entender en el examen e investigación de querellas.
2. **Expediente** - Los documentos radicados y relacionados con la querella presentada.
3. **Ordenamiento Electoral** - Comprende la Ley Núm. 4 del 20 de diciembre de 1977, según enmendada, conocida como Ley Electoral de Puerto Rico, los reglamentos y resoluciones aprobados por la Comisión

Estatal de Elecciones, leyes especiales aprobadas por la Asamblea Legislativa y aquellas leyes federales aplicables.

4. **Querella** - Cualquier alegación formulada mediante escrito y bajo juramento por un querellante señalando la comisión de actos, el empleo de conducta o la omisión de realizar diligencias que pudieren constituir una infracción al ordenamiento electoral aplicable.

5. **Querellante** - Cualquier elector, candidato, partido, persona natural o jurídica que alegue que se está o se ha estado incurriendo en actos, el empleo de conducta o la omisión de realizar diligencias que pudieren constituir infracciones al ordenamiento electoral aplicable.

6. **Querellado** - Cualquier elector, candidato, partido, persona natural o jurídica a quien se le impute mediante querella la comisión de actos, el empleo de conducta o la omisión de realizar diligencias que pudieran constituir infracción al ordenamiento electoral aplicable.

Sección 1.4 - APLICACIÓN Y ALCANCE

Las disposiciones de este Reglamento serán de aplicación a los electores, candidatos, partidos, y personas naturales o jurídicas.

TITULO II

COMITÉ EVALUADOR

Sección 2.1 - DESIGNACIÓN

En armonía con las disposiciones del Incido (e) del Artículo 1.005 de la Ley Electoral, se crea un Comité Evaluador compuesto por un examinador en representación de cada Comisionado Electoral y un representante del Presidente, quien presidirá el Comité.

Sección 2.2 - FUNCIONES

El Comité Evaluador tendrá la encomienda de examinar las querellas radicadas, formular determinaciones y someter las recomendaciones correspondientes a la Comisión.

Sección 2.3 - QUÓRUM Y ACUERDOS DEL COMITÉ EVALUADOR

La presencia de dos (2) Examinadores y la del representante del Presidente constituirán quórum para todos los trabajos.

Las recomendaciones del Comité Evaluador deberán ser suscritas con el voto unánime de los componentes que estuvieren presentes al momento de someterse a votación cualquier acuerdo.

Cualquier asunto sometido a la consideración del Comité Evaluador que no recibiere la unanimidad de los votos, será decidido en pro o en contra por el representante del Presidente, siendo ésta la única ocasión o circunstancia en la que podrá votar. Esta decisión se considerará como la decisión del Comité Evaluador.

Cualquier miembro del Comité que no esté conforme con el acuerdo a ser sometido en el Informe de Recomendaciones podrá someter un voto por separado, el cual será incluido como parte del expediente a elevarse a la Comisión.

Sección 2.4 - TERMINO PARA SOMETER EL INFORME A LA COMISION

El Comité Evaluador, luego del examen de la querella, y no más tardar de los quince (15) días desde el momento en que es recibido el expediente de parte el Secretario, deberá presentar en la Secretaría de la Comisión, para ser considerado en la próxima reunión ordinaria de la Comisión, el informe con las recomendaciones. Ante la proximidad de une evento electoral el término para actuar será el provisto en el Inciso (b) del Artículo 1.007 de la Ley Electoral.

Sección 2.5 - ALCANCE DE LAS RECOMENDACIONES

Las recomendaciones contenidas en el informe a la Comisión podrán ser, entre otras, al efecto de que: (1) se proceda al archivo de la querella; (2) se someta la misma a la jurisdicción del Departamento de Justicia Estatal, o al organismo administrativo correspondiente; (3) se lleve a cabo la gestión autorizada por ley en contra del querellado; (4) se someta recomendación a la Comisión para remediar el asunto en caso de alguna violación; (5) la Comisión lleve a cabo una investigación del asunto sometido en la querella. En tal caso, ésta quedará en suspenso hasta que culmine la investigación que se recomienda realizar por parte de la Comisión.

Sección 2.6 - FUNDAMENTOS PARA RECOMENDAR EL ARCHIVO DE UNA QUERELLA

En cualquier etapa de los procedimientos, las siguientes razones constituirán, entre otras, fundamentos válidos para recomendar el archivo de una querella sin necesidad de trámite ulterior:

1. La querella no aduce hechos que puedan constituir una infracción al ordenamiento electoral.
2. Por la naturaleza de los actos, omisión o conducta alegada, la Comisión no tiene jurisdicción sobre el asunto o materia.
3. Cuando se trata de anónimos, seudónimos o cuando se consigna el nombre de una persona natural sin su conocimiento y consentimiento.
4. Cuando se trate de escritos conteniendo lenguaje insultante, injurioso, soéz o de mal gusto.
5. El querellante se ha negado a comparecer ante el Comité Evaluador o a cooperar en la presentación de información que le haya sido requerida.

6. El asunto constituye cosa juzgada por haberse considerado y resuelto por la Comisión, por un tribunal competente u organismo administrativo con facultad legal para resolverlo.
7. El asunto objeto de la querella se encuentra ante un tribunal competente u organismo administrativo con facultad legal para resolverlo.

Las recomendaciones o determinaciones de la Comisión en relación con querellas relacionadas con alegadas violaciones serán publicadas.

Sección 2.7 - INTERVENCIÓN DE LA COMISION

La Comisión, luego de evaluar el informe del Comité Evaluador, podrá adoptarlo, modificarlo, revocarlo, devolverlo para nuevo examen o emitir la decisión que a su juicio estime procedente. De igual forma la Comisión cuando las circunstancias lo justifiquen podrá prescindir de la intervención del Comité Evaluador y pasar juicio sobre cualquier querella.

Sección 2.8 - TERMINO PARA ACTUAR – ALCANCE

Una vez sometido el informe a la Comisión, ésta deberá actuar sobre el mismo dentro de un plazo no mayor de quince (15) días a partir del recibo del informe. Si la Comisión no lleva a cabo ninguna de las gestiones mencionadas en la Sección 2.7, dentro del plazo establecido, una vez expirado éste se entenderá que ha revisado dicho informe y que está conforme con la decisión recomendada en el mismo. En este caso, la decisión contenida en el informe se considerará para todos los efectos legales como la decisión de la Comisión y como tal deberá actuarse no más tardar de los cinco (5) días siguientes, luego de expirado el plazo antes establecido. Ante la proximidad de un evento electoral el término para actuar será el provisto en el Inciso (b) del Artículo 1.007 de la Ley Electoral de Puerto Rico.

TITULO III

QUERELLAS

Sección 3.1 - RADICACIÓN – NOTIFICACIÓN

Toda querella deberá ser radicada en la Secretaría de la Comisión en original y cinco (5) copias. El Secretario procederá a abrir un expediente y le será asignado, al mismo, un número de radicación, el cual le será notificado al querellante al acusarle recibo de la querella y al querellado conjuntamente con copia de la querella.

El Secretario remitirá el expediente al Presidente del Comité Evaluador, dentro de las veinticuatro (24) horas de ser radicado y una vez recibido por éste, deberá convocar al Comité Evaluador en un plazo no mayor de las setenta y dos (72) horas, a los fines de pasar juicio sobre el mismo.

Sección 3.2 - CONTENIDO DE LA QUERELLA

Toda querella deberá someterse por escrito y contener:

1. El nombre del querellado y su dirección.
2. El nombre, la dirección y la firma del querellante.
3. Una relación concisa de los hechos que, supuestamente, puedan constituir una infracción al ordenamiento electoral. Esta deberá venir acompañada de cualesquiera documentos que contribuyan a sostener los fundamentos de dicha querella.
4. Juramento en donde se haga constar que los hechos le constan de su propio y personal conocimiento.

Sección 3.3 - QUERELLAS QUE NO CUMPLEN REQUISITOS

En los casos de querellas que no cumplan con los anteriores requisitos, el Secretario las radicará y le notificará al querellante que deberá cumplir con los mismos dentro del plazo de diez (10) días, advirtiéndole que si expirare dicho término sin

cumplimentarlas debidamente, la misma podrá ser desestimada. El Secretario retendrá el expediente hasta que se cumpla con los requisitos o se desestime por el incumplimiento de los mismos.

TITULO IV

COMPARECENCIA ANTE EL COMITÉ EVALUADOR

Sección 4.1 - REQUERIMIENTO DE COMPARECENCIA

El Comité Evaluador, a través de la Comisión, podrá requerir a los fines de investigar cualquier querella, la comparecencia ante sí de cualquier persona incluyendo al querellado. Podrá incluirse en el requerimiento que la persona citada suministre o traiga consigo cualesquiera informes o documentos que se estimen necesarios.

Sección 4.2 - SOLICITUD DE AUDIENCIA

Si el querellante lo solicitaré, se le brindará una audiencia como parte de los procedimientos de la evaluación de la querella.

TITULO V

DISPOSICIONES GENERALES

Sección 5.1 - QUERELLAS DE LOS COMISIONADOS ELECTORALES

Las disposiciones de este Reglamento no serán de aplicación a los miembros de la Comisión, quienes podrán someter sus querellas a la Comisión donde se procederá a discutir y resolver las mismas, de acuerdo con la ley.

Sección 5.2 - CONFIDENCIALIDAD

Se dispone que el expediente de querella se considerará documento privado desde su radicación y hasta que la Comisión tome la acción definitiva en torno del Informe de Recomendaciones.

Sección 5.3 - PENALIDADES

Toda persona que a sabiendas y fraudulentamente obrare en contravención con este Reglamento y resultare convicta del delito imputado, será sancionada, según lo dispone la Ley Electoral de Puerto Rico en el Artículo 8.005, el cual establece una pena de reclusión que no excederá de tres (3) meses o multa que no excederá de trescientos dólares ($300.00), o ambas penas a discreción del Tribunal.

Sección 5.4 - VARIACIÓN DE TERMINOS

Los términos establecidos en este Reglamento no prescritos por la Ley Electoral de Puerto Rico, podrán ser variados por unanimidad de la Comisión en casos meritorios y por causa justificada.

Sección 5.5 - ENMIENDAS AL REGLAMENTO

Este Reglamento podrá enmendarse por la Comisión, en cualquier momento en que así se estime conveniente, en beneficio de una mayor efectividad en la implantación de la Ley Electoral de Puerto Rico.

Sección 5.6 - SEPARABILIDAD

Si cualquier título, artículo, inciso, parte, párrafo o cláusula de este reglamento fuere declarado inconstitucional por un tribunal de jurisdicción competente, la sentencia a tal efecto dictada no afectará ni invalidará el resto de este Reglamento.

Sección 5.7 - VIGENCIA

Este Reglamento cobrará vigencia una vez se haya cumplido con los requisitos enunciados en el Inciso (I) del Artículo 1.005, que requiere la notificación previa al Gobernador de Puerto Rico y a la Asamblea Legislativa de Puerto Rico, mediante publicación al efecto en dos (2) periódicos de circulación general, dos (2) veces en un lapso de dos (2) semanas.

En San Juan, Puerto Rico, a de octubre de 2004.

AURELIO GRACIA MORALES
Presidente

GERARDO A. CRUZ MALDONADO
Comisionado Electoral PPD

THOMAS RIVERA SCHATZ
Comisionado Electoral PNP

JUAN DALMAU RAMIREZ
Comisionado Electoral PIP

CERTIFICO: Que este Reglamento fue aprobado por la Comisión en reunión ordinaria celebrada el ___ de octubre de 2004 y para que así conste firmo y sello esta Certificación en San Juan, Puerto Rico a de octubre de 2004.

RAMON M. JIMENEZ FUENTES
Secretario

Rhode Island

RULES & REGULATIONS ADOPTED BY THE RHODE ISLAND BOARD OF ELECTIONS ESTABLISHING AN ADMINISTRATIVE COMPLAINT PROCEDURE

The Rhode Island Board of Elections hereby adopts the within rules and regulations for the establishment of an administrative complaint procedure pursuant to and in accordance with Title IV, Section 402(a)(2) of the Help America Vote Act of 2002 ("HAVA") (P.L. 107-282) and the provisions of section 17-7-5 of the Rhode Island General Laws of 1956, as amended.

Said rules and regulations are adopted pursuant to the Administrative Procedures Act (R.I.G.L. 42-35-1, et seq.) and are available for public inspection at the offices of the Rhode Island Board of Elections, 50 Branch Avenue, Providence, Rhode Island.

Section 1. Purpose

The Rhode Island Board of Elections ("Board") hereby adopts these administrative regulations in order to carry out the adoption, maintenance, and implementation of the administrative complaint procedure required by the Help America Vote Act of 2002 ("HAVA"), in accordance with the requirements of Title IV, Section 402 (a) (2).

Section 2. Application

These administrative regulations provide for an administrative complaint procedure for persons who believe that a state or local election official in a federal election violated Title III of the Help America Vote Act of 2002 and shall be applied uniformly and in a nondiscriminatory fashion to all complaints filed hereunder.

Section 3. Definitions

For purposes of these regulations, the following terms shall have the meanings set forth herein:

Section 3 (cont.)

"Complainant" means the person who files a complaint with the Board under the terms of this chapter.

"Federal election" means an election at which a federal office appears on the ballot.

"Federal office" means the office of President or Vice President, or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress pursuant to Section 301(3) of the Federal Election Campaign Act.

"Respondent" means any state or local board or election official whose actions are alleged, in a written complaint provided for herein, to be in violation of Title III of the Help America Vote Act of 2002.

"Board" means the State Board of Elections as defined in R.I. Gen. Laws § 17-7-5.

"Local Board" means any of the Board of Canvassers for each of the cities and towns of the State of Rhode Island.

"State or local election official" means the Board, the Secretary of State, a clerk of any city or town board of canvassers, a local board, or any individual member, employee, officer, agent, or appointee thereof.

"Title III" means Title III of the Help America Vote Act of 2002, Public Law 107-252, 116 Stat., 1666 (2002), codified at 42 United States Code §§15481-15485.

"Presiding officer" means the person appointed by the Board to conduct a hearing on a complaint.

Section 4. Filing Of Complaints

Any person who believes that there has been a violation of any provision of Title III (that either has occurred, is occurring, or is about to occur), by any state or local election official may file a complaint with the Board in which the alleged violation occurred, as provided under these regulations. All complaints must:

1) Be in writing, sworn to under oath and under penalty of perjury, signed by the complainant, and notarized on a form provided by the Board or on any other paper or form that complies with each of the requirements of these regulations. Complainants shall receive instructions as to the complaint process and their rights to a hearing.
2) Include the full name, telephone number, and mailing address of the complainant.
3) Include a description of the alleged violation of Title III sufficient to apprise the Board and respondent of the nature and specifics of the complaint.
4) If a hearing on the record is requested, the complainant must so state.

Section 4 (cont.)

5) The completed and verified complaint shall be filed with the Board and shall certify that a copy of the complaint was provided via U.S. mail to each respondent. Respondents shall be provided the same information given complainants in (1) above.

6) Each respondent shall provide a written response within seven (7) days of receipt of the complaint, unless the parties agree on a longer time. The written response of each respondent shall be filed and served as provided by herein for complaints. Each respondent shall also have the right to request in writing that a hearing be held.

7) A complaint shall be filed within 90 days after the occurrence of the actions or events that form the basis for the complaint, including the actions or events that form the basis for the complainant's belief that a violation is about to occur, or, if later, within 90 days after the complainant knew, or with the exercise of reasonable diligence, should have known of those actions or events.

8) A complaint shall be deemed to have been filed on the day that the original signed and notarized document is actually received and filed with the Board.

Section 5. Processing Of Complaints

The Board, at its sole discretion, may process a complaint in any of the following ways:

1) The executive director of the Board may dismiss the complaint, and issue a final determination, if the complaint does not comply with the requirements set forth in these regulations or, if the complaint does not, on its face, allege a violation of Title III with regard to a federal election.

2) The executive director of the Board may dismiss the complaint, and issue a final determination, if the complaint is not filed within ninety (90) days of the final certification of the federal election at which the alleged violation took place.

3) The Board may, upon agreement of all the parties, resolve the complaint informally, and issue a final determination without a formal proceeding. Any such informal resolution procedure shall be open to the public.

4) The executive director of the Board shall schedule a date, time, and place for any hearing on the record.

5) The executive director of the Board may consolidate multiple complaints into a single proceeding if the complaints relate to the same actions or events giving rise to the complaint, or if the complaints raise common questions of law or fact.

Section 6. Hearings

If requested by the complainant, respondent, or ordered by the Board, and the complaint has not been summarily dismissed under the provisions of these regulations, the Board shall schedule a hearing that shall proceed as follows:

1) The hearing shall be tape recorded and/or transcribed, and the tape and/or transcript shall constitute the official record of the hearing.

2) Written notice of the hearing shall be given to all parties setting forth the date, time, and place of the hearing, and notice shall be sent to the mailing addresses set out in the complaint. When it is deemed reasonable by the executive director of the Board, said hearing shall be conducted within five (5) days from the date of filing the complaint with the Board.

3) At the hearing, each party shall be given an opportunity to explain their positions and present evidence to support their position. At the sole discretion of the Board or presiding officer, this presentation may include documents, witnesses, oral argument, and tangible things relevant to the determination of the complaint. Any cross-examination shall be at the sole discretion of the Board or presiding officer. However, a person may testify or present evidence to contradict any other testimony or evidence. The record of the hearing shall consist of the written complaint, the written response(s), the tape and/or transcription of the hearing, and any documents/exhibits introduced at the hearing.

4) A complainant, any respondent, or other person who testifies or presents evidence at the hearing may, but need not, be represented by an attorney.

5) If the hearing is on consolidated complaints, then the complainants may be allowed or required to designate a single representative party to advocate for the consolidated class at the hearing.

6) If the Board or presiding officer permits witnesses to testify, then they must be sworn in prior to their testimony being given.

7) If a complainant fails to appear at the hearing, then the complaint may be dismissed with prejudice.

Section 7. Determination

A final determination on the complaint shall be made in writing within ninety (90) days of the filing of the complaint. A copy of the determination shall be mailed to the complainant(s) and the respondent(s). This time period may only be extended upon the written consent of the complainant. The final determination of the Board or presiding officer shall be final and is only subject to discretionary review by the Rhode Island Supreme Court. The determination shall include notice of the availability of judicial review and the procedure for filing an appeal. If the presiding officer determines that there was a past, present or potential violation of Title III, then the written determination shall state the facts of the violation, set forth the specific violation of

Section 7 (cont.)

Title III, and provide for a remedy. The remedy awarded shall be directed to the improvement of processes or procedures governed by Title III, and must be consistent with state law.

Section 8. Alternative Dispute Resolution

1) If a final determination of a complaint is not made within ninety (90) days of the filing of the complaint and the complainant does not agree in writing to an extension, then the complaint shall be referred to a review panel comprised of one to three persons selected by the Board.
2) The review panel shall issue a final determination on the complaint within sixty (60) days of the referral. The review panel shall make its determination, on the record, of the hearing provided for in any proceeding that was held before the panel and shall not conduct any further proceedings, if the hearing was held and completed. If the hearing was not held or completed, then the review board shall conduct the hearing as prescribed in these regulations.

Section 9. Publication of Decisions

All final determinations shall be published and retained in the permanent archival records of the Board by attaching said determination to the meeting minutes of the Board that is next held after the final determination was issued.

These rules and regulations are adopted this _____ day of December 2003 pursuant to the Administrative Procedures Act (R.I.G.L. 42-35-1, *et seq.*).

By Order of the
Rhode Island Board of Elections

_____
Robert J. Fontaine, Executive Director

(EXCERPTS)

SOUTH DAKOTA CODIFIED LAWS

ELECTIONS

CHAPTER 12-4

REGISTRATION OF VOTERS

12-4-42. Complaints filed under the Help America Vote Act

The State Board of Elections shall resolve any complaint filed under Section 402 of the Help America Vote Act of 2002, as of January 1, 2003, in accordance with the contested case provisions of chapter 1-26. The complaint shall be signed, notarized, and filed with the secretary of state. The board shall resolve the complaint within ninety days of its filing. The State Board of Elections may promulgate rules, pursuant to chapter 1-26, governing the procedure for the complaint process.

Source: SL 2003, ch 83, § 16.

12-4-43. Arbitration of complaints under Help America Vote Act--Appointment of arbitrator--Time for resolution

If the State Board of Elections does not resolve the complaint within ninety days of filing, the complainant may ask the circuit court for alternative dispute resolution by appointing an impartial third party to serve as an arbitrator to resolve the dispute. The arbitrator shall resolve the dispute within sixty days.

Source: SL 2003, ch 83, § 17.

12-4-44. Time and place of hearing--Notice to parties

The arbitrator shall appoint a time and place for a hearing and serve each party personally or notify each party by registered or certified mail not less than five days before the hearing.

Source: SL 2003, ch 83, § 18.

12-4-45. Subpoena issued by arbitrator--Service and enforcement

The arbitrator may issue subpoenas for the attendance of witnesses and for the production of books, records, documents, and other evidence and may administer oaths. Any subpoena shall be served and enforced in the manner provided by law for the service and enforcement of subpoenas in a civil action.

Source: SL 2003, ch 83, § 19.

12-4-46. Depositions permitted by arbitrators--Compelling testimony

On application of either party and for use as evidence, the arbitrator may permit a deposition to be taken, in the manner and upon the terms designated by the arbitrator, of a witness who cannot be subpoenaed or is unable to attend the hearing. Any provision of law compelling a person under subpoena to testify is applicable.

Source: SL 2003, ch 83, § 20.

12-4-47. Evidence presented by parties--Cross-examination

Unless otherwise provided by an agreement, each party is entitled to be heard, to present evidence material to the controversy, and to cross-examine witnesses appearing at the hearing.

Source: SL 2003, ch 83, § 21.

12-4-48. Adjournment or postponement of hearing--Failure of party to appear

Unless otherwise provided by an agreement, the arbitrator may adjourn the hearing from time to time as necessary and at the request of a party and for good cause. The arbitrator may hear and determine the controversy upon the evidence produced notwithstanding the failure of a party duly notified to appear.

Source: SL 2003, ch 83, § 22.

12-4-49. Issuance of resolution--Delivery to parties

The resolution pronouncement shall be in writing and signed by the arbitrator. The arbitrator shall deliver a copy to each party personally or by registered or certified mail.

Source: SL 2003, ch 83, § 23.

Texas Administrative Code

TITLE 1	ADMINISTRATION
PART 4	OFFICE OF THE SECRETARY OF STATE
CHAPTER 81	ELECTIONS
SUBCHAPTER I	IMPLEMENTATION OF THE HELP AMERICA VOTE ACT OF 2002
RULE §81.171	**Administrative Complaint Procedures for Violations of Title III of the Help America Vote Act of 2002**

(a) Definitions. In this section:
(1) "HAVA" means the federal Help America Vote Act.
(2) "Party or Parties" means the person making the complaint and any political subdivisions, officer-holders, or individuals against whom the complaint is being alleged.
(3) "Secretary of State" means the currently appointed Secretary of State or his or her designee.
(b) A person who believes that a violation of Title III of the Help America Vote Act of 2002 has occurred , is occurring, or is about to occur may file a complaint with the secretary of state. Violations of Title III include but are not limited to:
(1) failure to comply with federal voting system standards, as set out in Section 301(a) of HAVA, including standards for accessibility for individuals with disabilities and alternate language accessibility;
(2) failure to comply with provisional voting procedures in an election as required by Section 302(a) of HAVA;
(3) failure to create statewide voter registration system in the manner set out in HAVA; and
(4) failure to post required voter information at the polling place as required by Section 302(b).
(c) All complaints must:
(1) be in writing, signed and notarized by the complainant.
(2) include the full name, telephone number, and mailing address of the complainant.
(3) include a description of the alleged violation of Title III sufficient to apprise the Secretary of State of the nature and specifics of the complaint.
(4) include a statement requesting a hearing on the record it desired.
(d) The complaint shall be reviewed by an employee of the Secretary of State to determine if the complaint meets the requirements as to form and content and identifies a violation of Title III of HAVA. The complaint shall also be reviewed to determine whether it alleges a Title III violation that falls within the direct authority of the Secretary of State or a Title III violation that falls within the authority of another jurisdiction. If the complaint does not meet the requirements as to form and content, it shall be returned to the complainant with an explanation as to its insufficiency. If the complaint meets the requirements, it shall be assigned a unique number and receipt date. Notice that the complaint has been accepted shall be mailed to all parties.
(e) Within 60 days of the receipt of the complaint by the Secretary of State, the Secretary of State shall review the alleged violation and make an initial determination as to whether there is a violation of Title III of HAVA.
(f) If the Secretary of State determines that there is a violation of a provision of Title III of HAVA, the Secretary of State shall inform the complainant in writing and provide the appropriate remedy. The remedy may not include any award of monetary damages, costs or

attorney fees, and may not include the invalidation of any election or a determination of the validity of any ballot or vote.

(g) If the Secretary of State determines that no violation of a provision of Title III of HAVA has occurred, the Secretary of State shall inform the complainant in writing. The notice to the complainant shall inform the complainant of his or her right to a hearing.

(h) Upon the initial determination of the Secretary of State, whether or not a violation was found, the complainant may exercise his or her right to a hearing by making a written request for a hearing on the record, which shall be held at the Secretary of State's offices in Austin, unless otherwise determined by the Secretary of State. If the nature of the complaint concerns a matter over which the Secretary of State has direct authority, the hearing shall be conducted by the Secretary of State. The hearing shall proceed as follows:

(1) The hearing shall be tape recorded, and the tape shall constitute the official record of the hearing.

(2) Written notice of the hearing shall be given to all parties including the date, time, and place of the hearing, and notice shall be sent to the mailing addresses set out in the complaint. Notice must be sent at least seven (7) days prior to the date of the hearing.

(3) If, in the discretion of the Secretary of State, the hearing is held via conference telephone call or video teleconferencing, the notice shall so state and further provide for the mechanics of the teleconference.

(4) The hearing may only be continued to a new date upon a determination of the Secretary of State that finds good cause, and in no event may it be continued more than once, or in no event may it be continued so as to make it difficult to issue a final determination within ninety (90) days of the filing of the complaint.

(5) At the hearing, each party shall be given an opportunity to explain their positions, and present evidence to support their position. At the sole discretion of the Secretary of State, this presentation may include documents, witnesses, oral argument, and tangible items relevant to the determination of the complaint. The record of the hearing shall consist of the written complaint, the written response(s), the tape of the hearing, and any documents/exhibits introduced at the hearing.

(6) If the Secretary of State permits witnesses to testify, they must be sworn in prior to their testimony being given.

(7) If a complainant fails to appear at the hearing, the complaint shall be dismissed with prejudice.

(i) If the Secretary of State fails to make a final determination within 90 days, which begins on the date the complaint is filed, unless the complainant consents to a longer period for making such determination, the complaint shall be resolved within 60 days under alternative dispute resolution procedures established for purposes of this section. The record and other materials from any proceedings conducted under the complaint procedures established under this section shall be made available for use under the alternative dispute resolution procedures.

(j) The Secretary of State may consolidate complaints filed under this rule if the Secretary of State determines that the complaints concern the same violation.

(k) Complaints, information filed with the Secretary of State in connection with complaints, and the Secretary of State's response to the complaint are public records.

Source Note: The provisions of this §81.171 adopted to be effective November 13, 2003, 28 TexReg 9801; amended to be effective July 1, 2004, 29 TexReg 6085

The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.state.tx.us

Roger Williams
Secretary of State

Phone: 512-463-5650
Fax: 512-475-2811
Dial 7-1-1 For Relay Services
(800) 252-VOTE (8683)

ADMINISTRATIVE COMPLAINT
For Alleged Violation of Title III of the
Help America Vote Act of 2002
(42 U.S.C. § 155.12)

For Office Use Only

Complaint #

_____-_____-_____-_____

Date of Filing

Pursuant to Section 31.010(b) of the Texas Election Code, the Secretary of State has sole jurisdiction to adjudicate alleged violations of Title III of the Help America Vote Act of 2002 (HAVA). Any person who believes that a violation of Title III of HAVA has occurred, is occurring, or is about to occur, may file a complaint. In order to initiate the complaint process, a sworn, written, signed and notarized complaint must be filed with the Secretary of State. The complaint must allege the violation with particularity, contain a reference to the section of HAVA alleged to have been violated, and identify the person or entity responsible for the alleged violation.

Administrative Complaint Procedure

Once a complaint is received, an employee of the Secretary of State will review it to determine if it (1) meets the requirements as to form and content and (2) identifies a violation of Title III of HAVA. We will also review the complaint to determine whether it alleges a Title III violation that falls within the direct authority of this office or within the authority of another jurisdiction, such as a county. If the complaint does not meet the requirements as to form and content, we will return it to you with an explanation as to its insufficiency. If the complaint meets the requirements, we will assign it a unique number and receipt date. We will mail you a notice that the complaint has been accepted. We will also mail the notice to all other concerned parties. We will make an initial determination of whether a Title III violation has occurred within 60 days after receiving the complaint. We will make a final determination of whether a violation occurred within 90 days after receiving the complaint. You have the right to request a hearing as part of this process. Hearings will be held at our offices in Austin, Texas. If we fail to make a final determination within 90 days after the original receipt of the complaint (or an extended period if we (1) determine that more time is required to resolve the issue and (2) you agree to the extension), you have the right to request resolution of the complaint under an alternative dispute resolution process as agreed upon by you, the Secretary of State, and the other parties to the dispute.

☛ **Do not detach this page. Complaint document will be numbered & dated in the upper right corner of <u>this page</u> when filed with this office.**

PERSON BRINGING COMPLAINT

Name _____ Home Phone _____ Work Phone _____
Address _____ County _____
City _____ State _____ Zip Code _____

PERSON OR ENTITY AGAINST WHOM COMPLAINT IS BROUGHT (limit one person/entity per form)

Name _____ Home Phone _____ Work Phone _____
Address _____ County _____
City _____ State _____ Zip Code _____

VIOLATION

If you believe that a violation of Title III of the Help America Vote Act of 2002 has occurred, is occurring or is about to occur, please state in the "Statement of Facts" section below the specific acts committed by the person or entity named in this complaint, along with a reference to the section of HAVA alleged to have been violated. If you need more space, please attach a separate sheet.

Violations of Title III of HAVA include, but are not limited to:

(1) failure to comply with federal voting system standards, which includes standards for accessibility for individuals with disabilities and alternate language accessibility [Section 301];

(2) failure to comply with provisional voting procedures [Section 302];

(3) failure to create and maintain statewide voter registration system [Section 303]; and

(4) failure to post required voter information at the polling place [Section 302(b)].

STATEMENT OF FACTS

State in your own words the detailed facts and circumstances that form the basis of your complaint, including any relevant person(s). In your narrative explanation, please include relevant dates and times and the names and addresses of other persons whom you believe have knowledge of the facts. Also, give any reasons that you feel the alleged violation was committed by the person and/or entity against whom this complaint is brought.

_____

STATEMENT OF FACTS (continued)

_____

Check here if additional pages are attached ☐

State of Texas
County of _____

I, the undersigned, under penalty of perjury do swear or affirm that the information contained in this complaint is true and correct to the best of my knowledge.

_____
Signature of Complainant

Sworn to and subscribed before me this _____ day of _____, 20_____.

_____
Signature of Officer Authorized to Administer Oaths or Notary Public

_____
(Print, Type, or Stamp Commissioned Name of Notary Public)

My Commission Expires:

_____

NOTICE: This complaint is not confidential and, once filed with the Texas Secretary of State, will be treated as a public record.

VERMONT ELECTIONS

ADMINISTRATIVE COMPLAINT PROCEDURE

I. **Authority:** In accordance with the provisions of 42 USC §15512(a) and 17 VSA §2458 this rule provides for a uniform, nondiscriminatory procedure for the resolution of a complaint alleging a violation of provisions of Title 17 of the Vermont Statutes or Title III of the Help America Vote Act of 2002 (HAVA). It is not intended to over-ride any specific provisions of Title 17 that provide for dispute resolution for specific aspects of Vermont elections (e.g. complaint in superior court for recounts).

II. **Definitions:**

A. "Complaint" means an allegation in writing that there is a violation of provisions of Title 17 of the Vermont Statutes or Title III of the HAVA that has occurred, is occurring or is about to occur in an election.
B. "Complainant" means any person filing a complaint in accordance with the provisions of paragraph III, below.
C. "Election" means a primary or general election in which a federal office appears on the ballot.
D. "Respondent" means any state or local elections official whose actions are alleged to be in violation of Title 17 or Title III.
E. "Secretary" means the Vermont Secretary of State or his or her designee.
F. "Title 17" means 17 V.S.A. sections 2451 - 2602.
G. "Title III" means Title III of the Help America Vote Act of 2002; 42 United States Code §§15281-15485.

III. **Complaints:** Any person who believes that a violation of provisions of Title 17 or Title III by any state or local election official has occurred, is occurring or is about to occur may file a complaint with the Secretary.

A. Complaints must be in writing, sworn under oath under penalty of perjury, signed by the complainant and notarized
B. Complaints must include the full name, telephone number and mailing address of the complainant.
C. Complaints must include a description of the alleged violation sufficient to make the Secretary and respondent aware of the nature and specifics of the complaint.
D. If a hearing on the record is requested, the complaint must so state.
E. The notarized complaint must be filed with the Secretary at 26 Terrace Street, Drawer 9, Montpelier, VT 05609-1101.
F. The complainant must also send a copy of the complaint to each respondent by first class U.S. mail.

IV. **Procedures:** The Secretary may process complaints in any of the following ways:

A. Dismiss the complaint and issue a final determination if the complaint does not comply with the requirements of paragraph III, above; or if the complaint does not, on its face, allege a violation of Title 17 or Title III with regard to an election.
B. Dismiss the complaint and issue a final determination if the complaint is not filed within sixty (60) days of the final certification of the federal election at which the alleged violation took place.
C. Resolve the complaint informally, and issue a final determination without a formal proceeding unless the complaint requests a hearing on the record.
D. Designate a hearing officer and schedule a date, time and place for a hearing on the record.
E. Consolidate multiple complaints into a single proceeding if the complaints relate to the same actions or events giving rise to the complaints, or the complaints raise common questions of law or fact.

V. **Hearing Procedures:** If requested in the complaint, and if no other summary action has occurred, the Secretary shall schedule a hearing as follows:

A. Written notice of the hearing shall be given to all parties setting out the date, time and place of the hearing. Notice shall be sent to the mailing addresses set out in the complaint. Notice must be sent by first class US mail at least seven (7) days prior to the date of the hearing.
B. The hearing shall be recorded. The audio recording shall constitute the official record of the hearing.
C. An extension of time for a hearing may be granted for good cause.
D. At the hearing all parties shall have the opportunity to be heard and to present evidence relevant to the determination of the complaint. Witnesses shall be sworn.
E. Any party may be represented by legal counsel.
F. If a complainant fails to appear at the hearing then the complaint shall be dismissed with prejudice.

VI. **Determination:**

A. A written determination on the complaint shall be made within ninety (90) days of the filing of the complaint.
B. A written determination shall be issued within ten (10) days of the conclusion of any hearing.
C. The determination shall be final. The determination may be appealed to the superior court in the county where an appellant resides.

VII. **Alternative Dispute Resolution:** If, for any reason, the Secretary does not make a final determination within ninety (90) days after the complaint was filed, or within any extension of time to which the complainant consents, the complaint shall be resolved under this section:

A. The Secretary shall immediately designate a three-member arbitration panel which shall consider the complaint and any record previously created and reach a final determination by majority vote of the panel. If no record has been created, or the record is incomplete, the panel may receive evidence in accordance with the provisions contained in paragraph V, above.

B. The panel shall issue a written, final determination within thirty (30) days of its designation.

C. The final determination of the panel may be appealed to the superior court in the county in which an appellant resides.

GOVERNMENT OF THE VIRGIN ISLANDS OF THE UNITED STATES
ELECTION SYSTEM OF THE VIRGIN ISLANDS
RULES AND REGULATIONS

PROCEDURES FOR THE UNIFORMED NON-DISCRIMINTORY
ADMINISTRATIVE COMPLAINT PROCEDURES

TITLE 18 SECTION 47(5) 1.1 PURPOSE AND AUTHORITY

Pursuant to P.L. 107-252 "Help America Vote Act 2002 section (254 & 402) and Title 18 section 47 subsection 5, the Election System of the Virgin Islands, establishes the following procedures for the conducting of the Joint Boards of Elections responsibilities in the administration and enforcement of Title 18, Chapter 3 Virgin Islands Code.

SECTION 47-2 NON-DISCRIMINATION POLICY STATEMENT

The voting population of the Virgin Islands is a community of people with respect for diversity. The Election System of the Virgin Islands emphasizes the dignity and equality common to all persons and adheres to a strict nondiscrimination policy regarding the treatment of individuals. In accord with federal law and applicable Virgin Islands statutes, the Election System of the Virgin Islands does not discriminate on the basis of race, color, religion, sex, national origin, ancestry, age, disability, or veteran status in employment or in any program or activity offered by the agency. The Election System of the Virgin Islands maintains a administrative complaint procedure incorporating full due process and an appeal process to any person who believes there is a violation of any provision of Title III, this includes a violation which has occurred, is occurring, or is about to occur.

SECTION 47- 3 FILING

(A) Filing of papers;

1. Any complaint filed under these procedures shall be in writing and notarized, and signed and sworn by the person filing the complaint. Supporting documentation may accompany the complaint.

2. The Territory may consolidate complaints filed under section 47-3(1)

3. At the request of the complainant, there shall be a hearing on the record, this request shall be made at the time of filing of papers.

SECTION 47- 4 METHODS OF RESOLUTION AND PROCEDURES

(A) INFORMAL HEARING PROCEDURE;

1. The informal hearing is intended to affect a resolution of the matter by reconciling the parties' differences and/or rectifying the alleged action(s). If, after preliminary review of the matter, it is the judgment of the Supervisor of Elections that the Office of the Supervisor of Elections should not address the case, the informal procedure shall be terminated and the Supervisor of Elections shall advise the complainant of other available procedures that are available to them.

2. If the Supervisor of Elections finds that the Office of the Supervisor of Elections should address the complaint, the Supervisor of Elections will initiate the informal complaint procedure. The Supervisor of Elections may communicate directly with the respondent specifically outlining the alleged infractions and attempt to resolve the matter. If this resolves the complaint, no other person will be contacted. The Supervisor of Elections may also meet both parties, make inquiries to ascertain pertinent fact, and consult with others to facilitate the process. If, under this procedure, it is determined that there is a violation of any provision of Title III, an appropriate remedy shall be instituted. If, under this procedure, it is determined that there is no violation of any provision of Title III, the complaint shall be dismissed and the results of the procedures shall be published. If this option does not resolve the matter, all other options remain open to the complainant.

(B) FORMAL HEARING PROCEDURES;

1. The formal hearing procedure described below are established for those issues which remain unresolved after informal hearing has occurred, or in which the Supervisor of Election determines the alleged action is egregious to such a degree that a formal hearing is necessary.

(a) WRITTEN COMPLAINT

Any complaint filed under these procedures shall be in writing and notarized, and signed and sworn by the person filing the complaint. Supporting documentation may accompany the complaint. The complaint must contain s detailed description of the action being complained about, the name of the alleged offender(s). Further, the complaint must confirm the veracity of the allegations.

(b) NOTIFICATION

Within ten (10) business days of the receipt of a signed complaint, the Supervisor of Elections will notify the respondent of the complaint. In providing notice to the parties, the Supervisor of Elections will identify the pertinent policies and procedures involved and will explain the investigative process and the rights and responsibilities of all parties. Notice will be delivered by hand or certified mail. A copy of the written complaint or statement will also be provided to the respondent. The respondent will be provided an opportunity to make a formal statement in rebuttal. The respondent has ten (10) business days after receipt of the complaint in which to respond to the allegations in the complaint in writing and submit the reply to the Supervisor of Elections.

Within ten (10) business days of the receipt of the reply, the Supervisor of Elections shall discuss the reply with the complainant, and ask both the complainant and respondent if they will enter into mediation to resolve the complaint. If so, the Supervisor of Elections will initiate the mediation process within fifteen (15) business days of receiving the reply.

(c) INVESTIGATION

If the complaint is unresolved, or if either party refuses to the Supervisor of Elections, or a qualified designee, will act as investigator. If the respondent elects not to participate in the formal resolution process, the case may be investigated without the respondent's involvement.

If, during the investigation, the complainant indicates a desire to withdraw the complaint, the case will be closed and the complainant will not be permitted to re-file the complaint, absent extraordinary circumstances. However, in cases where the investigation discloses a clear violation of Election System of the V.I. policy and/or territorial or federal statutory mandates, the Supervisor of Elections office will take action to address those violations regardless of the complainant's wishes. The Supervisor of Elections, or qualified designee, is authorized to contact any and all personnel and other individuals (e.g. individual, voter, candidates, agents, subcontractors, volunteers, or guests) who may have information relevant to the complaint. The Supervisor of Elections, or qualified designee, will have access to all relevant records. The investigator will maintain a written record of interviews and investigation. The Office of Supervisor of Elections retains this document as a permanent confidential record.

At the discretion of the District Chairman, the District Board of Elections may review (by hearing, if so requested) the circumstances of the case and provide the Supervisor of Elections with recommendations. The District Board of Elections shall determine hearing procedures and the constitution of the hearing committee.

The hearing procedures will be formal, and the purpose will be to permit both the complainant and respondent an opportunity to present their case.

(d) REPORT OF FINDINGS

Based on the findings of the investigation, the Supervisor of Elections shall prepare a report of findings which shall include: a description of the alleged acts, a summary of the evidence collected, an evaluation of the pertinent evidence, and a finding of probable cause or no probable cause as to whether the conduct constitutes a violation of the Election System of the Virgin Islands policies and procedures. If, under this procedure, the territory determines that there is a violation of any provision of title III, the territory shall provide the appropriate remedy. If, under this procedure, the territory determines that there is no violation the territory shall dismiss the complaint and publish the results of the procedure. Potential violations of the system's policies and procedures, which are discovered during the investigation but which are outside the jurisdiction of the Office of Supervisor of Elections, will be referred to the appropriate office or department for resolution. The final report will be issued within sixty (60) business days after the commencement of formal procedures. Again, the time may be extended by mutual agreement or as is permitted in this policy. Supervisor of Elections will provide copies of the report to the complainant, respondent and appropriate District Boards. The complainant and respondent will be advised of the appeal process at that time.

(e) FINAL DETERMINATION

When charges of a problem/violation are substantiated and probable cause is determined. The appropriate District Board, in consultation with the Supervisor of Elections, will render a determination regarding the proposed disciplinary and/or corrective action. The Supervisor of Elections input will be limited to issues presented in the case and specific questions regarding compliance with federal and territorial mandates. Decisions regarding corrective action shall be exclusively the province of the appropriate District Board. The District Board will be responsible for the implementation of all such disciplinary/corrective action. At a minimum, the action taken should be designed to protect the complainant from future any procedural or statutory violations. Consistent with the Election System's employee confidentiality policies, the complainant may not be fully advised of actions imposed. The District Board, in consultation with the Attorney General, will determine whether further hearing opportunities are required prior to determination of proposed discipline. The territory shall make a final determination with respect to the complaint prior to the expiration of the 90-day period, which begins on the date; the complaint is filed, unless the complainant consents to a longer period for making such a determination. If the territory fails to meet the deadline 90-day period, the complaint shall be resolved within 60 days under

alternative dispute resolution procedure. The record and other material from any proceeding conducted under the complaint procedures shall be made available for use under the alternative dispute resolution procedure.

(f) APPEAL PROCESS

If either party (complainant or respondent) is not satisfied with the outcome of the final determination, that person may appeal to the Joint Board of Elections. Any such appeal shall be in writing, stating the basis for the appeal, and shall be filed in the Office of the Supervisor of Elections within ten (10) business days of the date of the finding of no probable cause, or the date of the District Boards determination of proposed sanctions, whichever is appropriate. If there is no appeal within the time limit set forth, the finding of no probable cause shall become final, or the proposed sanctions will be imposed, as the case may be. When an appeal is filed, the Supervisor of Elections and/or the District Board shall forward information regarding the complaint to the Joint Boards of Elections, and the complainant or respondent may submit any further information as desired or requested. The Joint Boards of Elections shall, within ten (10) business days, communicate in writing to the complainant and respondent a decision with a copy to the Supervisor of Elections. The Board may refuse to hear the appeal, thereby affirming the findings of the District Board or Supervisor of Elections or, it may hear the appeal. The complainant and respondent will be notified, in writing, whether or not the Board will hear the appeal. The hearing may be formal or informal, and the time and place of such hearing shall be communicated within a reasonable time to all parties involved. Formal rules of evidence shall not apply. The Board or other member of the Board designated, as chair of the appeal committee shall control the appeal Board, or its designated committee, shall have access to all facts and information it believes relevant to the case. Counsel at the hearing may represent parties involved in the appeal. Upon conclusion of such hearings, the Board or its designated Committee shall render a decision in writing, and a copy will be provided to both complainant and respondent. That decision shall be final.

(g) Further Appeals;

Within thirty (30) days from the date the Board's decision order become final, any party aggrieved thereby may petition the Territorial Court of the Virgin Islands for review of the same. The appeal shall be taken in accordance with the rules of procedure of the Court and shall name the opposing party at the administrative level as the appellee. The Board or a duly designated agent should also be named to facilitate delivery of the administrative record to the Court.

SECTION 47-4 ALTERNATIVE DISPUTE RESOULTION PROCEDURE

(A) MEDIATION;

1. Mediation shall be the alternative dispute resolution procedure It is mandated pursuant to P.L. 107-252 section 402(1)(I). Upon preliminary review of the allegations, the Joint Board of Elections will determine whether the case is appropriate for mediation. Examples of those that may not be appropriate for mediation include complaints that involve discrimination against a group or class, reflects a pattern and practice of discrimination, or criminal violation. (This is not an exhaustive listing). If the complainant's selection of mediation is appropriate, the Supervisor of Election will initiate the mediation process within fifteen (15) business days. The Supervisor of Election may serve as the mediator or assign the case to a mediator. The mediator must be neutral, objective, and agreeable to both parties. The mediator will promptly arrange a meeting of both parties, during which the parties will develop a memorandum of understanding as to the purpose and goals and scheduling of the mediation sessions. The mediator will preserve this documentation. At the conclusion of the successful mediation, the parties will develop and the mediator will preserve an agreement for resolution of the complaint and future interactions between both parties. The written agreement will be signed by both parties and submitted to the Supervisor of Elections. The agreement will take effect immediately according to its own terms.

We hereby approve these rules and regulations as adapted by the Joint Boards of Elections at the regular meeting of May 19, 2004

Alecia M. Wells, Chairman
Joint Boards of Elections

Donna F. Roberts, Secretary
Joint Boards of Elections

DATED: This 19th day of May 2004

THE VIRGINIA STATE BOARD OF ELECTIONS

VIRGINIA VOTERS' ELECTION DAY COMPLAINT FORM

How to File a Complaint Using the Voter Grievance Process

If you feel your voting rights have been violated or that you may have witnessed an election law being broken, contact the State Board of Elections at 1-800-552-9745, or via email at info@sbe.virginia.gov.

First, review the "Voters' Rights and Responsibilities" poster in the polling place or on our web site (www.sbe.virginia.gov). Make sure you meet the requirements that allow you to vote. If you do not understand the requirements, ask an election official to explain them to you.

If you feel you met all the requirements but were still not allowed to vote, ask an election official to contact the Voter Registrar's office about your case ***before you leave the polling place.*** The Voter Registrar will investigate your case and may be able to resolve the problem immediately.

If you are still not satisfied with the outcome, call the State Board of Elections at 1-800-552-9745 as soon as possible, ***preferably before the polls close.*** The sooner the State Board knows about your problem, the more likely you will get a satisfactory answer on Election Day.

If you still believe your voting rights may have been violated or may be violated in the near future, you may file a formal complaint with the State Board of Elections. Inside are instructions on how to file a complaint, time lines and the route your complaint will follow.

NOTE: You have 10 days from the date of the incident to file a complaint.

How to file a complaint:

1. Fill out the Complaint Form (also available at www.sbe.virginia.gov). Provide as much information as possible so we can fully understand the nature of the problem.
2. Have the Complaint Form notarized.
3. Mail the signed and notarized form to:
   Deputy Secretary
   Virginia State Board of Elections
   200 N. 9th St., Suite 101
   Richmond, VA 23219

The State Board will review and address your complaint using the following process:

First Level of Resolution: The Deputy Secretary of the State Board of Elections

The Deputy Secretary has 15 days from the receipt of your complaint to:

- To determine if the complaint is valid and resolve it.
- If the complaint is not valid, the Deputy Secretary will list the reasons for this decision and inform you in writing of your right to use the Alternative Dispute Resolution Process (ADR).
- If there are several similar complaints then the Deputy Secretary may determine that the complaints can be resolved with a policy change. In this case, you will receive written notice of the steps taken to resolve the issue.

If you are unsatisfied with the Deputy Secretary's decision, you have 10 days from the date of the decision to appeal and use the second level (ADR.)

Second Level of Resolution: Alternative Dispute Resolution (ADR)

The ADR specialist has 30 days to resolve your issue. The ADR specialist will contact you to set up a meeting. At this meeting, the ADR specialist will assist the people in dispute to come up with a solution. If this recommendation does not satisfy everyone involved, you have 10 days to request a hearing before the full State Board of Elections.

Third Level of Resolution: Hearing before the State Board of Elections

If a Board meeting is not scheduled within 30 days, SBE will request additional time to hear the case. If you refuse the additional time request, the State Board of Elections will hold a special meeting to hear your complaint.

The Help America Vote Act of 2002, requires that all grievances submitted to the State Board of Elections be resolved within 90 days. As a result, the timelines listed above must be followed exactly or you risk losing your right to have your complaint resolved.

At the hearing, you will have the opportunity to present your case before the Board. The Board will then determine, by majority vote, if there is a violation of any provision of the voting rights outlined above.

The Board has the final say on all complaints filed. All complaints settled before the Board will be explained in full detail on State Board of Elections' website and in the Board minutes.

VIRGINIA VOTERS' ELECTION DAY COMPLAINT FORM

Ask an Election Official to help you if you need assistance completing this form.

Please write legibly.

Your Name (last, first, middle) Today's Date

Your Address (Number and Street) City State Zip Code

Your Daytime Telephone Number Email address (optional)

Polling Place Name

Polling Place Address (Number and Street) City State Zip Code

Name of Election Official or Volunteer if known

Date of Incident

Describe your Complaint

Your Signature

Notary's Signature Date

Notary's Commission Expiration Date

OFFICE USE ONLY

Complaint Number

Date Received

Date Sent to ADR Specialist

Hearing Date

Date Closed

Rev. 08/04

THE VIRGINIA STATE BOARD OF ELECTIONS

VIRGINIA VOTERS' ELECTION DAY COMPLAINT FORM

How to File a Complaint Using the Voter Grievance Process

MAIL COMPLETED FORM TO:

DEPUTY SECRETARY
STATE BOARD OF ELECTIONS
COMMONWEALTH OF VIRGINIA
200 N. 9TH STREET, SUITE 101
RICHMOND, VIRGINIA 23219-3497

WASHINGTON

WSR 04-16-037

PERMANENT RULES

SECRETARY OF STATE

[Filed July 27, 2004, 1:44 p.m. , effective August 27, 2004]

Purpose: The rules will implement an administrative complaint procedure as required by the Help America Vote Act of 2002. The rules allow voters who feel that the provisions of Title III of the Help America Vote Act were not enforced when they tried to vote an avenue to make a complaint and have the situation remedied for the next election. The anticipated effect of the rule is to make sure that elections are run according to the requirements of federal law and that no one is disenfranchised through an act by an election official.

Statutory Authority for Adoption: RCW 29A.04.610.

Adopted under notice filed as WSR 04-13-016 on June 4, 2004.

Number of Sections Adopted in Order to Comply with Federal Statute: New 11, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 11, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 11, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: July 27, 2004.

Steven Excell

Assistant Secretary of State

OTS-7083.3

Chapter 434-263 WAC

ADMINISTRATIVE COMPLAINT PROCEDURE

NEW SECTION
WAC 434-263-005 Purpose. The purpose of these rules is to adopt an administrative complaint procedure mandated by 42 U.S.C. § 15512(a), relating only to state implementation of Title III of the Help America Vote Act of 2002, Public Law 107-252, 116 Stat. 1666 (2002), for both state and federal elections. This process may not be used for the purpose of contesting the results of any primary or election. Election contests are governed by chapter 29A.68 RCW.

[]

NEW SECTION
WAC 434-263-010 Definitions. For purposes of this chapter, the following terms shall have the following meanings:

(1) "Complainant" means the person who files a complaint under this chapter.

(2) "Election" means a special, primary or general election.

(3) "Respondent" means any state or local election official whose actions are asserted, in a complaint under this chapter, to be in violation of Title III.

(4) "Secretary" means the secretary of state or his or her designee.

(5) "State or local election official" means the secretary of state, any county auditor, or any person employed by either the secretary or an auditor whose responsibilities include or directly relate to the administration of any election.

(6) "Title III" means Title III of the Help America Vote Act of 2002, Public Law 107-252, 116 Stat. 1666 (2002), codified at 42 United States Code §§ 15481-15485. Violations include, but are not limited to, voting system standards, provisional voting, accessibility for individuals with disabilities, and voter registration.

[]

NEW SECTION
WAC 434-263-020 Complaints. Any person who believes that there is a violation of any provision of Title III, including a violation which has occurred, is occurring, or is about to occur, by any state or local election official may file a complaint with the secretary under this chapter. All complaints must:

(1) Be in writing, sworn under oath, signed and notarized. A form is optional if it contains all the required elements;

(2) Include the complainant's name, telephone number and mailing address;

(3) Include a clear and concise description of the alleged violation of Title III that is detailed enough to let both the respondent and the secretary know what the complaint is about;

(4) Be filed with the secretary, with proof of mailing or delivery of a copy to each respondent, no later than thirty days after the certification of the election at issue.

(5) If a form is provided by the office of the secretary of state, the form shall be available in all languages required by the department of justice.

[]

NEW SECTION
WAC 434-263-030 Adoption of brief adjudicative proceedings. All complaints filed pursuant to this chapter shall be treated as brief adjudicative proceedings, and the secretary adopts RCW 34.05.482 through 34.05.494 to govern such proceedings. The secretary has determined that the interests involved in such complaints do not warrant the procedures of RCW 34.05.413 through 34.05.479. If a complaint is written in a language as provided in the Voting Rights Act of 1965, the office of the secretary of state shall obtain a translator to facilitate processing the complaint.

[]

NEW SECTION
WAC 434-263-040 Processing of complaint. (1) The secretary may process the complaint in any of the following ways:

(a) The secretary may dismiss the complaint, and issue a final determination, if it does not comply with WAC 434-263-020 or if it does not, on its face, allege a violation of Title III with regard to an election;

(b) The secretary may, with the agreement of the parties, resolve the matter informally, and issue a determination without formal proceedings; or

(c) The secretary may schedule the matter for a brief adjudicative proceeding. The secretary shall do so if the complaint is not dismissed pursuant to (a) of this subsection and a party so requests.

(2) The secretary may consolidate complaints if they relate to the same actions or events, or if they raise common questions of law or fact.

[]

NEW SECTION
WAC 434-263-050 Brief adjudicative proceeding. (1) The secretary shall designate one or more people to act as presiding officer(s) of a brief adjudicative hearing. A presiding officer may be:

(a) The assistant or deputy secretary;

(b) The director of elections;

(c) The deputy director of the elections division;

(d) Any county auditor; or

(e) An administrative law judge.

The designee shall not be from an office named in the complaint.

(2) Before issuing a determination on the complaint, the presiding officer shall give each party an opportunity to explain the party's view of the matter, including an opportunity to be informed of the secretary's view of the matter if applicable. A determination may be based upon written submissions and documents, unless a party or the presiding officer requests a hearing on the record within ten days after the filing of the complaint.

(3) The presiding officer may schedule a hearing on the record:

(a) In person at a convenient location;

(b) By conference telephone call; or

(c) By such other method that permits the parties to hear and participate in the proceeding simultaneously.

Witnesses at a hearing shall be sworn upon oath. A party who requests a hearing but fails to make himself or herself available for hearing within the time available for initial determination shall be deemed to have waived the hearing.

(4) The presiding officer may permit or solicit the submission of written materials or oral presentations by persons who are not parties if the presiding officer determines that such submissions would be helpful in evaluating the complaint.

(5) The secretary shall establish and maintain the record of the proceedings as required by RCW 34.05.494. If a hearing on the record is conducted, the record shall include a transcript or audio recording of the hearing.

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NEW SECTION
WAC 434-263-060 Initial determination and remedies. (1) The presiding officer shall render a written initial decision within forty-five days after the complaint is filed, unless the complainant consents to a longer period. The determination shall include a statement as to whether, based upon a preponderance of the evidence, a violation of Title III has been established with regard to an election. If the presiding officer determines that a violation has occurred, the determination shall specify the appropriate remedy, if one exists. If the presiding officer determines that no violation has been established, the complaint shall be dismissed.

(2) The remedy awarded under this section shall be directed to the improvement of processes or procedures governed by Title III and must be consistent with state law. Remedies may include written findings that a violation of Title III has occurred and strategies for insuring that the violation does not occur again, as well as any other remedy available to the secretary under law. The remedy may not include any award of monetary damages, costs, penalties or attorney fees, and may not include the invalidation of any vote, ballot, primary or election. Remedies addressing the validity of any primary or election or of any ballot or vote may be obtained only as otherwise provided by law.

(3) The initial determination shall include a summary of the process for obtaining an administrative review and shall include notice that judicial review may be available.

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NEW SECTION
WAC 434-263-070 Administrative review. (1) Any aggrieved party may request an administrative review of the initial determination. If the secretary does not receive a request, in writing, for an administrative review within twenty-one days of service of the initial determination then the initial determination automatically becomes a final determination. If the parties have not requested an administrative review, the secretary may review the presiding officer's adjudication on his or her own motion as provided by RCW 34.05.491.

(2) The reviewing officer may be the secretary, the assistant or deputy secretary, or the director of elections, except that the same person may not serve as both the presiding officer and reviewing officer. The reviewing officer shall give each party an opportunity to explain the party's view of the matter, but must render a final determination within ninety days after the original filing of the complaint unless the complainant consents to a longer period. The determination of the reviewing officer is final and no further

administrative review is available. The final determination shall include notice that judicial review may be available.

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NEW SECTION
WAC 434-263-080 Alternative dispute resolution. (1) If a final determination is not rendered within forty-five days after the filing of the complaint, or within such additional time to which the complainant may consent, then the complaint shall be transferred to a board of arbitration, which must resolve the complaint within sixty additional days, which may not be extended. The board of arbitration shall be composed of three members, designated by the secretary, at least two of whom must be county auditors or election managers. No two members of the panel may be employed by the same office, agency or other employer.

(2) The arbitrators shall review the record compiled in proceedings prior to the transfer, including the tape or transcript of any hearing, but may not conduct any further hearing or receive any additional testimony, evidence, or other submissions. The arbitrators shall determine the appropriate resolution of the complaint by majority vote. No further administrative review is available, but the arbitrator's final determination shall include notice that judicial review may be available.

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NEW SECTION
WAC 434-263-090 Publication. All final determinations shall be posted on the secretary's website, lodged with the state library or state archives, and distributed to others upon request and upon payment of copying costs. Copies shall be provided to the parties at no cost.

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NEW SECTION
WAC 434-263-100 No necessity to exhaust administrative remedies. It is not necessary to exhaust any administrative remedies available under this chapter in order to pursue any other legal action provided by law.

Washington
Secretary of State

Complaint Form

Under section 402(a)(2) of the Help America Vote Act of 2002 (HAVA), P.L. 107-252 and Washington Administrative Code, Chapter 434-263, any person who believes that a violation of any provision of Title III of HAVA has occurred, is occurring, or is about to occur, may file a complaint with the Office of the Secretary of State. This form may be used to file such complaints. However, a letter containing the below information will be considered an acceptable complaint as well. All complaints must be notarized and filed within thirty (30) calendar days of the date after the certification of the election at issue and sent to the Washington Secretary of State, Elections Division, Post Office Box 40229, Olympia, WA 98504-0229. The state shall make a final determination within 90 days of receiving the complaint.

Thank you for taking the time to make this complaint

A. Person Making Complaint

Last Name	First	Middle Initial	
Street address			
City	County	State	Zip Code
Home Telephone Number ( )	Work Telephone Number ( )	Email Address (optional)	

B. Description of the Alleged Violation

Please identify:
1. The facts of the alleged violation
2. Witnesses, if any, and contact information if you have it
3. Date and time you became aware of the alleged violation
4. Location where the alleged violation occurred
5. Who is responsible for the alleged violation
6. Other information that you think will be helpful in resolving your complaint

HAVA Complaint Form 402 (August 2004)

If you need more room to describe the alleged violation, please attach another page.

I hereby certify that the information provided above is true and correct to the best of my knowledge.

_____
Complainant Signature

Please have a Notary Public complete the below section

Subscribed and sworn to (or affirmed) before me this _____ Day
Of _____, 20 _____.

_____
Notary Public

My Commission Expires on:

_____

WISCONSIN
2005 Wisconsin Statutes

5.061 Compliance with federal Help America Vote Act.

(1) Whenever any person believes that a violation of Title III of P.L. 107-252 has occurred, is occurring, or is proposed to occur with respect to an election for national office in this state, that person may file a written, verified complaint with the board.

(2) If the board receives more than one complaint under sub. (1) relating to the same subject matter, the board may consolidate the complaints for purposes of this section.

(3) A complainant under sub. (1) or any of the complainants in a consolidated complaint under sub. (2) may request a hearing and the matter shall then be treated as a contested case under ch. 227, except that the board shall make a final determination with respect to the merits of the complaint and issue a decision within 89 days of the time that the complaint or the earliest of any complaints was filed, unless the complainant, or each of any complainants whose complaints are consolidated, consents to a specified longer period.

(4) If the board finds the complaint to be without merit, it shall issue a decision dismissing the complaint. If the board finds that the violation alleged in the complaint has occurred, is occurring, or is proposed to occur, the board shall order appropriate relief, except that the board shall not issue any order under this subsection affecting the right of any person to hold an elective office or affecting the canvass of an election on or after the date of that election.

History: *2003 a. 265.*

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