

**TITLE 230. STATE ELECTION BOARD
CHAPTER 35. ELECTION CONDUCT**

**SUBCHAPTER 9. HAVA REQUIREMENTS
PART 9. COMPLAINTS**

230:35-9-21. Purpose

The purpose of the rules in this subchapter is to establish a procedure to receive, ~~investigator review~~ and resolve complaints of alleged violations of the provisions and requirements of Title III of the Help America Vote Act of 2002 (HAVA). This procedure is required by Title IV of HAVA.

230:35-9-22. Complaints

(a) 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 with the Secretary of the State Election Board. Any such complaint shall be in writing, shall be notarized, and shall be signed and sworn by the complainant. A complaint shall include at least the following information.

- (1) Complainant's name and mailing address
- (2) The nature of the complaint and specific facts describing the alleged violation
- (3) ~~The nature of the solution sought.~~ specific citation of Title III of HAVA under which the complaint is being brought
- (4) A request for a hearing on the record, if desired. ~~(A hearing shall be required only if requested in the complaint, and only if the complaint includes allegations that, if true would constitute a bona fide violation of Title III of HAVA-), and~~
- (5) Any additional information pertinent to the complaint, including the nature of the solution sought.

~~(b) The Secretary of the State Election Board shall provide, upon request, a form to be used to make a written complaint. Use of the form is not required. Any written complaint containing the information outlined in (a) of this Section shall be accepted.~~

230:35-9-23. Receiving complaints

Upon receipt of a written complaint alleging a violation of Title III of HAVA, the Secretary of the State Election Board shall cause the following steps to be performed.

- (1) The original complaint shall be marked with a "received" stamp that includes the date.
- (2) A State Election Board staff member shall assign a unique case number to the complaint.
- (3) ~~The Secretary of the State Election Board shall review the complaint. If the complaint includes a request for a hearing on the record, the Secretary shall set a date and time for the hearing and shall, and if necessary, issue an Order for Hearing.~~
- (4) Specific procedures for the hearing may be determined in consultation with the office of the Attorney General.

230:35-9-24. Investigation of complaint [REVOKED]

~~The Secretary of the State Election Board shall review the complaint and shall assign one or more members of the State Election Board staff to investigate the allegations contained in the~~

complaint. Specific investigatory procedures shall be determined in consultation with the office of the Attorney General.

230:35-9-25. Hearing

In the event that the complainant requests a hearing on the record, the Secretary of the State Election Board shall serve as the hearing officer. ~~In the absence of the Secretary the Assistant Secretary of the State Election Board shall~~ The Secretary may assign one or more members of the State Election Board staff to serve as hearing officer in place of the Secretary. The Secretary shall hear any testimony and shall review any evidence offered by the complainant. Provided, if the Complainant fails to meet the requirements set forth in 230:35-9-22, or after review of the complaint and proposed evidence, the Secretary concludes that the specific allegations, even if true, would not constitute a violation of Title III of HAVA, the Secretary may dismiss such Complaint without the need for conducting a hearing. The Secretary shall notify the Attorney General and the District Attorney in the county where the hearing is conducted if the hearing officer determines that false allegations were made or false evidence or testimony was provided as part of the complaint or at the hearing.

230:35-9-26. Resolution of complaint

Unless the complainant consents to a longer period for making such a determination, ~~Not~~ not more than 90 days following the receipt of a complaint, the Secretary of the State Election Board shall make a final determination with respect to the complaint. If the Secretary finds that there has been no violation of Title III of HAVA, the Secretary shall dismiss the complaint and publish the results of the procedures. In the event the Secretary finds that a violation of title III of HAVA has occurred, the Secretary shall provide a remedy. ~~The Secretary shall publish the results of the investigation and the final determination. Further, any alleged violation that has previously been resolved or dismissed under these procedures, either by the complainant or another person who wishes to raise the same facts and violations of Title III of HAVA are barred from having another hearing on the matter, and will be notified of such in writing.~~