



State of Tennessee
Department of State
Division of Elections
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September 1, 2006

Ms. Eva D. Walker
229 Ledwell
Seymour, Tennessee 37865

RE: TITLE III HAVA COMPLAINT

Ms. Walker,

Our office received your Title III HAVA Complaint on July 17, 2006. I have reviewed your statement contained in the complaint and have spoken with Ronee' Flynn, Sevier County (Interim) Administrator of Elections. I have also spoken with Connie Casteel, Administrator of Elections in Coffee County.

According to Section 402 of Title IV of the Help America Vote Act (hereinafter HAVA), each state must establish a state-based administrative complaint procedure. Pursuant to that section, the Coordinator of Elections or designee must determine if a violation of Title III has occurred. A violation of Title III includes the following categories:

- voting systems standards
- provisional voting
- voter information requirements
- computerized statewide voter registration list
- accessibility for individuals with disabilities.

Pursuant to Section 301 of Title III of HAVA, each voting systems shall permit the voter to verify the votes selected by the voter on the ballot before the ballot is cast and counted. The voting system must also provide the voter with the opportunity to change the ballot or correct any error before the ballot is cast and counted. Finally, if the voter selects votes for more than one candidate for a single office, the voting system must notify the voter before the ballot is cast and counted that the voter has voted for more than one candidate and provide the voter with the opportunity to correct the ballot.

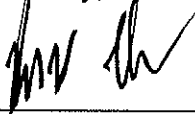
According to your statement, the voting system did comply with the requirements of Title III Section 302. The voting system alerted you prior to casting your ballot that the ballot was "incomplete". This feature allows the voter to review his/her choices.

In reviewing your complaint, I spoke with Connie Casteel, Administrator of Elections in Coffee County. Coffee County and Sevier County share the same type of voting system, the ES&S iVotronic. I also spoke with Ronee' Flynn, interim administrator for Sevier County. According to both individuals, if a race allows a voter to vote for more than one candidate in a race and the voter votes for only one candidate by choice, the machine will indicate an "incomplete" ballot. If the voter chooses to only vote for one candidate where more than one candidate is to be chosen, the screen will continue to state "incomplete" ballot. The voter must select the confirmation button to submit his/her votes. According to Ms. Flynn, there were two (2) races, constable and county commissioner, where the voter had the option to select two (2) candidates. You stated that you did review your ballot and therefore did not understand why the system displayed "incomplete". It would therefore appear that you chose to select only one (1) candidate in one of the above races.

Therefore, the voting system does comply with the standards set out in Section 302. The problem occurred when the poll worker attempted to assist you. You are correct that it is the voter's responsibility to cast his/her ballot. Although you had reviewed the ballot and requested assistance, the poll worker should not have pressed the confirmation button for you. We have spoken with this particular poll worker regarding this situation and informed the poll worker that pressing the confirmation button for a voter is not an acceptable practice. Our office will work with the counties to further educate the poll workers on the correct procedure to follow in that situation.

Thus, I do not find that Title III Section 302 of the Help America Vote Act was violated. The complaint is therefore dismissed.

Sincerely,



Brook Thompson
Coordinator of Elections