

Tre Hargett, Secretary of State

State of Tennessee



Division of Elections
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October 17, 2014

Hilda Pearson
169 Bivens Road
Tellico Plains, TN 37385

RE: HAVA and General Complaint

Dear Ms. Pearson,

Our office received your Title III Help America Vote Act (hereinafter HAVA) complaint and general election complaint on August 27, 2014. The complaints are identical in their allegations regarding the August 7, 2014, election and the Monroe County Election Commission.

As it relates to the HAVA complaint, according to Section 402 of Title IV of the Help America Vote Act, 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

None of the issues set forth in your HAVA complaint would constitute a violation of Title III of the Help America Vote Act. Since your complaint does not fall within one of the Title III categories, the complaint procedure states that if no violation of Title III is found the complaint must be dismissed. Therefore, the HAVA complaint is dismissed as it relates to a Title III violation and the general complaint will be addressed below.

As to the general complaint, there were several issues set forth in the complaint, the first being a list of voters who voted absentee by-mail. The complaint states that these voters were too young to vote an absentee by-mail ballot. Being a specific age, over sixty (60) is not the only reason a voter may request an absentee by-mail ballot. There are over thirteen (13) different

circumstances in which a voter may request an absentee by-mail ballot. I have reviewed the absentee requests for each of the names provided in the complaint and all those requesting an absentee by-mail ballot listed a statutory reason for requesting the absentee ballot. If a statutory reason is provided by the voter and the other statutory requirements are met, the election commission office must process the absentee request. If you believe the voters from your list are falsifying their absentee request, the district attorney's office should be notified so that an investigation can be conducted.

Included in the complaint are pictures of what appears to be a violation of the one hundred (100) foot boundary. I spoke to James Brown, Administrator of the Monroe County Election Commission office, and informed him that these violations have been brought to our attention. If you believe the one hundred (100) foot boundary is being violated during the November election, you may also contact the local district attorney's office. A violation of the one hundred (100) foot boundary is a Class C misdemeanor.

Part of the complaint includes a Facebook post regarding an allegation that a voter was paid to vote for a certain candidate during the August 2014 election in Monroe County. This allegation has been brought to our attention and I have spoken to Calvin Rockholt, Criminal Investigator with the District Attorney's office in the 10th Judicial District regarding this matter. It is my understanding that the Tennessee Bureau of Investigations (TBI) has a pending investigation into these allegations and whether a violation of Tennessee Code Annotated § 2-19-126 has occurred.

Regarding candidates and the election commission office, there are no prohibitions or procedures regarding a family member of the election commission or the staff of the election commission running for office. In those situations, we attempt to discuss procedures with the election commission office that will protect the integrity of the election process. According to James Brown, he is the only person who processed the absentee ballots for the August 2014, election.

There is a note on one of the pages stating that Patrick Hawkins, the mayor of Tellico Plains, works for the United States Post Office. The federal Hatch Act law substantially changed in December 2012, to allow more state and local government employees to participate as candidates. If you believe a violation of the Federal Hatch Act has occurred or if you would like more information regarding when a violation has occurred, contact the United States Office of Special Counsel at 800-854-2824.

Regarding voting at licensed facilities, according to James Brown, the two individuals appointed by the election commission as absentee voting deputies for the August 2014 election were Casey Miller and Bob Giese. These individuals should be appointed by their respective political party at a regularly scheduled election commission meeting and those appointments should be in the minutes. I am unclear if you are saying that you were appointed instead of Casey Miller. If that is correct, you should speak to the Democratic election commissioners regarding this issue so that they are aware that their appointed person was not allowed to perform their duties. Unless a person is either an appointed absentee deputy or an appointed poll watcher

for a candidate or political party, the person should not be observing the voting process at those facilities.

I hope I have addressed all the issues set forth in the complaint. For many of the issues, our office at this point can only communicate with Mr. Brown on the proper procedures that should be followed for the November election. I would encourage you to contact our office immediately during the November election should you believe the election procedures are not being properly followed. Our office can then work with the Monroe County Election Commission to correct any issues immediately.

Thank you for bringing these issues to our attention.

Sincerely,



Cara Harr
HAVA Attorney