

Tre Hargett, Secretary of State
State of Tennessee



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August 21, 2012

Nicolle T. Crist
246 West Maple Street
Dresden, TN 38225

RE: TITLE III HAVA Complaint

Ms. Crist,

Our office received your Title III HAVA Complaint on August 13, 2012. I have reviewed your statement contained in the complaint and have spoken with Barbara Castleman, Weakley County Administrator of Elections and reviewed statements from election officials at the 1st Baptist Church polling location.

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

Your complaint does not allege a violation of the provisional voting laws nor does the complaint allege a violation relating to the voter information that is required to be publicly posted at the polling location on Election Day. Title III Section 302(b) (1) of the Act requires the following:

[t]he appropriate State or local election official shall cause voting information to be publicly posted at each polling place on the day of each election for Federal office.

Information to be posted includes sample ballots, the date and hours during which the polls will be open, instructions on how to vote and how to cast a provisional ballot,

information regarding first time voters who registered by mail, general information on voting rights and general information on Federal and State laws regarding prohibitions on acts of fraud and misrepresentation. This is not an allegation relating to the provisional voting process or relating to required information not being publicly posted at the polling location.

Your complaint relates to the type of identification that must be presented when a person votes in person, i.e., a state or federal issued photo ID. This requirement was effective January 1, 2012. The photo ID is to verify the voter's identity. Tennessee Code Annotated § 2-7-112 also requires the election official to determine whether the voter's address is different from the address on the voter's permanent registration record. Although one's voter registration card is not required, in addition to one's photo ID, the card does provide valuable information to ensure that the voter is in the correct precinct. If the voter has the voter registration card and is willing to present the card, it can assist the election official in locating the voter's information; however, the information can be retrieved without the voter registration card. Once a voter presents a state or federal issued ID, the voter cannot be refused a ballot if the voter does not present their voter registration card.

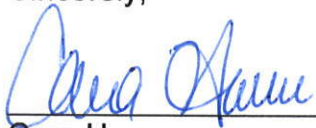
I spoke to the officer of elections at your polling location. No voters were refused a ballot due to not having their voter registration card nor did any voter vote a provisional ballot because the voter did not possess a valid state or federal issued photo ID.

Tennessee Code Annotated § 2-4-108(b) does require the election commission to have each election official attend an instructional meeting for the purpose of training the election officials of their duties during an election; however, a test is not statutorily required. I have also spoken to Barbara Castleman, Administrator of Elections, and requested that during training she emphasize that the voter registration card is not a required document under normal circumstances. There are circumstances in which a voter must present a second form of identification and the voter registration card would be an acceptable document. It is not a violation of the law to ask the voter if the voter has their voter registration card but the election officials need to understand that the voter registration card is not a required document.

Since your complaint does not fall within one of the Title III categories, I do not believe that Barbara Castleman violated the Help America Vote Act by not providing you with a HAVA complaint form. The photo ID requirement and the statutorily provisions of Tennessee Code Annotated § 2-7-112 are not categories in which a violation of the Help America Vote Act could be found. Therefore, your complaint does not fall within one of the Title III categories. According to the complaint procedure, if no violation of Title III is found, the complaint must be dismissed. This HAVA complaint will therefore be dismissed. I have addressed your concerns above as a general complaint. The concerns which you raised relating to the request for the voter registration card have been communicated to Barbara Castleman at the Weakley County Election Commission.

If you have any questions, please contact our office.

Sincerely,



Cara Harr
HAVA Attorney