

Tre Hargett, Secretary of State  
**State of Tennessee**



Division of Elections  
312 Rosa L. Parks Avenue, 9<sup>th</sup> Floor  
Nashville, Tennessee 37243-0305

Mark Goins  
Coordinator of Elections

615-741-7956  
Mark.Goins@tn.gov

May 10, 2012

Jackson Collins  
807 New Stansbury Road  
Turtletown, TN 37391

**RE: TITLE III HAVA COMPLAINT**

Mr. Collins,

Our office received your Title III HAVA Complaint on March 26, 2012. I have reviewed your statement contained in the complaint, have spoken with Steve Gaddis, Polk County Administrator of Elections and visited the polling location in question.

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

On March 18, 2012, I visited the Tri State Trail and Tree polling location in Turtletown, Tennessee to inspect the entrance ramp to the location. Ideally, the least possible slope should be used when constructing a ramp, however, a ramp already in existence should have no more than a 1:10 slope according to the ADA accessibility guidelines. Preferably an existing ramp would have no more than a 1:12 slope meaning that 12 inches of ramp is needed for every inch the ramp rises. At the Turtletown polling location, the height of the entrance is approximately 14 inches and therefore the length of the ramp would need to be 168 inches long or at least 14 ft long. This ramp is only 103 inches long. Furthermore the wood extension of the ramp alone has a slope that is

greater than a 1:8 slope. Therefore, the ramp in question would probably not be considered accessible pursuant to ADA guidelines. Accordingly, if it is determined that a violation of Title III has occurred, the State, through the Coordinator of Elections or designee, shall provide an appropriate remedy in accordance with Title III.

According to Mr. Gaddis, the polling location for that area was the elementary school which has since been relocated. The polling location was then moved across the street to an empty building which was used as a bank. That location was used during the 2010 election cycle but due to its condition could not be used for the 2012 election cycle.

When a location is designated as a polling location, Tennessee Code Annotated § 2-3-107 requires the election commission to designate polling locations that have adequate heat, light, space and electrical outlets. In addition, Tennessee Code Annotated § 2-3-109(d) (1) requires these locations to be accessible to elderly voters and voters with disabilities. Unfortunately, not all locations can be made accessible even with temporary solutions. Our office works with the county election commissions and supplies items to the county election commission that can be used to make a polling location accessible on Election Day. Often ramps, threshold ramps, mats and other items can be used at the polling location to make the location accessible for election day voting. It appears that the election commission did attempt to place an accessible mat over the wood portion of the ramp so that the slope was not as steep.

It is my opinion that in order to make the entrance ramp more accessible at this location, the ramp would have to be reconstructed. Unfortunately, the slope, especially at the bottom of the ramp, cannot be abutted with additional ramps to be made accessible. There are no other alternative entrances which can be used by an elderly voter or a voter with a disability. Furthermore, according to Mr. Gaddis, there are no other locations that can be designated as a polling location within the precinct that meet the statutory requirements and are available to the county election commission. Although the Polk County Election Commission is not obligated to reconstruct the ramp, it is my understanding that the Polk County Election Commission is reviewing that option for the upcoming elections.

As stated before, not all locations can be made accessible even with temporary solutions. Therefore, the statute addresses this issue and provides an appropriate remedy for this situation. Tennessee Code Annotated § 2-3-109(e) states that if in the discretion of the state election commission and the state election coordinator, a designated location is not accessible, the county election commission shall publish in a newspaper of general circulation a notice advising any elderly voter or voter with a disability that the polling location is inaccessible and that the voter has the right to vote by mail or at the election commission office during the early voting period or on election day.

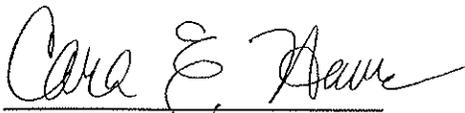
Therefore, if this location is to be used in the August and November 2012 elections, unless the entrance ramp is reconstructed with no more than a 1:12 slope, the county

election commission office must follow Tennessee Code Annotated § 2-3-109(e). If the Polk County Election Commission designates this location as inaccessible, a voter assigned to this location who wishes to vote at the county election commission office on Election Day must file the enclosed affidavit with the commission office. The enclosed affidavit must be received not less than ten (10) days prior to the first election in which the voter plans to vote at the election commission office. The affidavit will remain on file and the voter does not have to file any additional affidavits to vote at the election commission office on Election Day. Please note you do not need to file the enclosed affidavit if you choose to vote during early voting or by absentee ballot.

In your complaint you state that you attempted to address this issue with Mr. Gaddis in December 2011. I apologize that this issue was not addressed prior to the March 6, 2012, election. The statute requires the above notice to be placed in the newspaper no later than forty-five (45) days before the election. I will review this timeframe with Mr. Gaddis and request that this issue be added to either the May or June election commission meeting for discussion. I will also request that Mr. Gaddis inform you if the election commission determines that the polling location is inaccessible so that you may file the affidavit in a timely manner if you desire to vote at the county election commission office on Election Day. I appreciate you bringing this issue to our attention.

If you have any questions, please contact our office.

Sincerely,



Cara E. Harr  
HAVA Attorney

Enc: Affidavit for Inaccessible Polling Place

Cc: Steve Gaddis, Polk County Election Commission  
Ronnie O'Neal, Chairman Polk County Election Commission  
Freeman Curbow, Secretary Polk County Election Commission