

Agency # 108.00  
MARK-UP

**RULES FOR  
OF PROCEDURE FOR CITIZEN  
COMPLAINTS ~~OF NON-HAVA (HELP~~  
~~AMERICA VOTE ACT)~~  
REGARDING VIOLATIONS OF STATE  
ELECTION AND VOTER REGISTRATION  
LAWS**

(Effective February 6, 2004; Revised ~~September 25, 2009~~)



State Board of Election Commissioners  
501 Woodlane, Suite 401N  
Little Rock, AR 72201  
(501) 682-1834 or (800) 411-6996  
[www.arkansas.gov/sbec](http://www.arkansas.gov/sbec)

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## Scope of Rules

These rules set forth the procedures for providing uniform and nondiscriminatory resolution of any ~~non-HAVA (Help America Vote Act) related~~ complaint alleging a violation of election and voter registration laws under the jurisdiction of the State Board of Election Commissioners in accordance with Arkansas Code Annotated § 7-4-120<sup>1</sup>, ~~except as to Arkansas Code Annotated § 7-1-103(a)(1) (4), (6), and (7), and except for any matters relating to campaign finance and disclosure laws that the Arkansas Ethics Commission shall have the power and authority to enforce according to Arkansas Code Annotated §§ 7-6-217 and 7-6-218.~~

## § 600 Definitions

(a) “Complainant” means any person who files a complaint with the State Board of Election Commissioners, hereinafter referred to as the “State Board” alleging that a violation of any election or voter registration law under the State Board of Election Commissioners’ jurisdiction has occurred.

(b) “Election laws” means the Arkansas statutes concerning elections conducted by county boards of election commissioners and the rules promulgated by the State Board of Election Commissioners under § 7-4-101 concerning elections conducted by county boards of election commissioners<sup>1</sup>.

~~(b)~~ “Frivolous” means clearly lacking any basis in fact or law.<sup>2</sup>

~~(e)~~ “HAVA” is the federal Help America Vote Act of 2002 that established the Election Assistance Commission to assist in the administration of federal elections and allocated federal funds to states for election administration improvements, including replacing punch card and lever voting machines, improving accessibility for voters with disabilities, implementing a statewide voter registration system, voter and election official training, and other improvements.

~~(d)~~ “Letter of Caution” means a written disposition of an allegation against any person which is advisory in nature, clearly giving notice to the respondent that his or her action or lack of action is a violation of law.

(f) “Letter of Instruction” means a written disposition of a complaint of an allegation against an election official or county clerk issued in furtherance of the State Board of Election Commissioner’s responsibility to provide training for election officials. A letter of instruction may be issued when the State Board lacks authority to adjudicate a complaint, when the board

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<sup>1</sup> A.C.A. § 7-4-120 as amended by Act 1253 of 2015

<sup>2</sup> A.C.A. § 7-4-120 as amended by Act 1253 of 2015  
~~7-4-118(a)(6)(B)~~

makes no finding that an election law violation occurred, or when the board determines that a letter of instruction is preferable to a statutory sanction.

(eg) “Letter of Reprimand” means a written disposition of an allegation against any person which is condemnatory in nature, clearly giving notice to the respondent that his or her action or lack of action is a violation of the law. The reprimand will require the respondent to refrain from engaging in the same activity again. A reprimand shall be considered more severe than a caution or warning.

(fh) “Letter of Warning” means a written disposition of an allegation against any person which is condemnatory in nature, expressing strong disapproval for the respondent’s misconduct and expressing the view that the misconduct undermines public confidence in the integrity of the election process.

(i) “Probable Cause Hearing” means a hearing on a complaint by the State Board, open to the public and held after the director has completed a preliminary investigation, to determine whether there is probable cause to find that a respondent has violated laws under the board’s jurisdiction.

(j) “Public Hearing” means a hearing on a complaint by the State Board, open to the public, to adjudicate a complaint.

(gk) “Respondent” means any person whose actions are asserted, in a complaint filed with the State Board, to be in violation of any election or voter registration law under the ~~State Board’s~~board’s jurisdiction.

(l) “Statutory Sanction” means a letter of caution, warning, or reprimand, or a fine that can be imposed pursuant to the State Board’s statutory authority to sanction violations of election and voter registration laws.

(m) “Voter registration laws” means those laws under Arkansas Constitution, Amendment 51 and the rules promulgated pursuant to Arkansas Constitution, Amendment 51.<sup>3</sup>

## **§601 Who May File**

Any person alleging that a violation of any election or voter registration law under the State Board’s jurisdiction has occurred may file a complaint. The State Board may file a complaint of its own volition.<sup>4</sup>

## **§ 602 Form of Complaint**

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<sup>3</sup> A.C.A. § 7-4-120 as amended by Act 1253 of 2015

<sup>4</sup> ~~A.C.A. § 7-4-118(a)(2)~~

To be considered, a complaint must be in writing, ~~notarized~~, signed, and sworn by the Complainant under penalty of perjury, and must clearly state the alleged election irregularities or illegalities, when and where the alleged activities occurred, and supporting facts surrounding the allegations, ~~and the desired resolution~~.<sup>5</sup>

~~Filing of a frivolous complaint is considered a violation of Arkansas Code Annotated § 7-4-118.~~<sup>6</sup>

### § 603 Filing a Complaint

A written complaint must be filed with the State Board within thirty (30) days of an alleged voter registration violation or the election associated with the complaint.<sup>7</sup>

### § 604 Processing a Complaint

#### A. Receipt of Complaint

Upon receipt, every written complaint shall be stamped with the current date, filed, entered upon the complaint docket and a copy forwarded to the ~~Deputy Director~~director. The ~~Deputy Director~~director, ~~under the direction of the Director and on behalf of the State Board~~, shall determine if the written complaint meets the requirements of a complaint as set forth in §§ 602 and 603.

#### B. Notice to Respondent

Upon receipt of a complaint, the director shall notify the respondent(s) listed in the complaint that a complaint has been filed against him.

#### C. Director's Determination of Sufficiency

##### Insufficient complaint

If ~~determined the director determines~~ that the written complaint is not timely filed, ~~not or~~ in proper form or that ~~there is the allegations are~~ insufficient ~~evidence~~ to establish a violation of election or voter registration laws under the State Board's jurisdiction, then the director shall make a report stating those findings and summarizing the complaint and any additional evidence known to the director. The director shall send a copy of the complaint and the report to each commissioner by email and, if requested in advance by a commissioner, by first class mail. The director's determination shall be considered to be adopted by the State Board on the seventh business day after the date that the director's determination was sent by email unless, before the seventh business day, any commissioner requests that the board further consider the complaint at a meeting of the board ~~the State Board acting through the Director shall dismiss the complaint~~

<sup>5</sup> A.C.A. § 7-4-~~118(a)(4), (5)~~120(b)(2), (3)

<sup>6</sup> ~~A.C.A. § 7-4-118(a)(6)(A)~~

<sup>7</sup> A.C.A. § 7-4-~~118(a)(3)~~120(b)(1)

~~and advise the complainant in writing as to why the complaint was dismissed.~~<sup>8</sup> If the State Board so adopts the director's determination that the complaint fails to meet the requirements of these rules, then the director shall notify the complainant of that determination and the complaint shall be closed.<sup>9</sup>

#### Desired resolution

If the complaint is otherwise timely filed and proper but does not state a desired resolution, the director shall provide to the complainant notice of the deficiency by letter (regular United States mail) and instruct the complainant that he or she may provide the desired resolution to the State Board by letter (regular mail or overnight delivery service) or email.<sup>10</sup>

#### Proper complaint

~~If determined the director determines~~ that the written complaint ~~meets the requirements of §§ 602 and 603~~ is timely, in proper form, and that ~~there is sufficient evidence to the allegations, if true,~~ establish a violation of election or voter registration laws under the State Board's jurisdiction, then the director shall make a report stating those findings and summarizing the complaint and any additional evidence known to the director. The report may include a recommendation by the director that the complaint be addressed through documentary submissions<sup>11</sup>, that it be further investigated<sup>12</sup>, or that it be provided to the proper authority<sup>13</sup>. The director shall send a copy of the complaint and the report to each commissioner by email and, if requested in advance by a commissioner, by first class mail.~~the State Board may proceed to investigate the alleged violation<sup>14</sup> or forward the complaint, along with the information and documentation as deemed appropriate, to the proper authority.~~<sup>15</sup> If the director recommends that the complaint be further investigated, that the complaint be addressed through documentary submissions without statutory sanctions, or that the complaint be forwarded to the proper authority, such recommendation shall be considered to be adopted by the board on the seventh business day after the date that the director's determination was sent by email unless, before the seventh business day, any commissioner requests that the board further consider the complaint at a meeting of the board. If the director recommends that the complaint be addressed through documentary submissions with statutory sanctions, the State Board shall consider the director's recommendation in a meeting of the board.

### **§ 605 Investigations; Determination of Probable Cause; Probable Cause Hearing**

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<sup>8</sup> ~~A.C.A. § 7-4-118(b)(2)~~

<sup>9</sup> ~~A.C.A. § 7-4-120(b)(4)~~

<sup>10</sup> ~~A.C.A. § 7-4-120(b)(3)(B)(ii) as amended by act 1253 of 2105~~

<sup>11</sup> ~~A.C.A. § 7-4-120(d)(1) as amended by act 1253 of 2105~~

<sup>12</sup> ~~A.C.A. § 7-4-120(d) as amended by act 1253 of 2105~~

<sup>13</sup> ~~A.C.A. § 7-4-120(c)(3), 7-4-120(d)(1) as amended by act 1253 of 2105~~

<sup>14</sup> ~~A.C.A. § 7-4-118(b)(1)~~

<sup>15</sup> ~~A.C.A. § 7-4-118(b)(3)~~

### A. Notice to Respondent

Upon determination that an investigation is necessary a complaint should be investigated, the State Board director shall notify the respondent of the investigation and nature of the investigation and provide provide a copy of the complaint or pertinent parts of the complaint to the party against whom the complaint is lodged, hereinafter referred to as the “respondent,” respondent, along with instructions regarding the opportunity to respond to the complaint.<sup>16</sup>

### B. Director’s Investigation Report

Upon completing an investigation, the director shall prepare a report of the investigation for submission to the State Board. The report may include a recommendation by the director that the complaint be addressed through documentary submissions without statutory sanctions, that a letter of instruction be issued, that the complaint be forwarded to the proper authority, or that the State Board set a probable cause hearing.

After receipt of the director’s report, the director’s recommendation shall be considered to be adopted by the State Board on the seventh business day after the date that the director’s determination was sent by email unless, before the seventh business day, any commissioner requests that the State Board further consider the complaint at a meeting of the board. At the meeting the State Board may either order the staff to further investigate the complaint or:

1. Set a hearing to determine whether probable cause of an election law violation exists;
2. Determine that the complaint should be dismissed;
3. Issue a letter of instruction;
4. Refer the complaint to the proper authority; or <sup>17</sup>
5. Take other appropriate action.

### C. Probable Cause Hearing

If the State Board sets a probable cause hearing, the director shall notify the respondent and the complainant in writing of the date, time and place of the meeting at which the probable cause determination shall be made. The respondent may be represented by counsel and may offer testimony and other evidence. The complainant may also be represented by counsel and address the State Board but shall not be responsible for presenting any evidence. Staff shall present the final report of the investigation at the meeting together with any other information staff deems appropriate.

If the State Board finds that probable cause exists for a finding of a violation, the board shall issue a written Offer of Settlement to the respondent, stating its findings and the proposed sanctions. The respondent may accept the State Board’s Offer of settlement in writing within ten calendar days of the issuance of the Offer. If the offer is not accepted, the State Board may call for a full public hearing.<sup>18</sup>

<sup>16</sup> A.C.A. §§ ~~7-4-118(b)(4)(A)~~ 7-4-120(b)(7)(B); 7-4-120(d)(2) as amended by act 1253 of 2105

<sup>17</sup> A.C.A. § 7-4-120(d)(1)

<sup>18</sup> A.C.A. § 7-4-120(b)(7)(C) as amended by act 1253 of 2105

If the State Board does not find probable cause, it shall dismiss the complaint. The State Board may issue a letter of instruction when the complaint and other evidence indicate that such a letter is necessary and proper. Also, the State Board may refer the complaint and any evidence in its possession related to the complaint to the proper authority.

### **§ 606 Oaths and Subpoenas**

The State Board may administer oaths for the purpose of taking sworn statements from any person thought to have knowledge of any facts pertaining to the complaint.<sup>19</sup>

The State Board may request that the respondent answer allegations in writing, produce relevant evidence, or appear in person before the ~~State Board~~board.<sup>20</sup>

The State Board may subpoena any person, books, records, or other documents relevant to the complaint investigation by the ~~State Board~~board.<sup>21</sup>

The State Board shall provide the subject of the subpoena with reasonable notice of the subpoena and an opportunity to respond.<sup>22</sup>

### **§ 6076 Public Hearing**

~~Upon completing its investigation, staff shall prepare a final report of the investigation for submission to the State Board for determination as to whether or not probable cause exists for a finding of a violation of election or voter registration laws under its jurisdiction.~~

~~If the State Board finds that probable cause exists for a finding of a violation, the State Board may call for a full public hearing.~~<sup>23</sup>

If a public hearing is called, ~~staff~~the director shall notify the respondent and the complainant in writing of the date, time, and place of the meeting at which the complaint will be considered.

The notice shall also include a statement of the legal authority and jurisdiction under which the hearing is to be held and a short and plain statement of the matters of fact and law asserted. The respondent ~~and complainant~~ may attend in person or by counsel, and have the right to representation by counsel in all matters related to the complaint. The respondent may ~~and~~ offer testimony and present tangible evidence in connection with the complaint. The complainant also has the right to attend the public hearing and be represented by counsel, but the complainant shall not be responsible for presenting any evidence. Such responsibility lies with staff. If a

<sup>19</sup> A.C.A. § ~~7-4-118(b)(4)(B)~~7-4-120(d)(3)(A) as amended by act 1253 of 2105

<sup>20</sup> A.C.A. § ~~7-4-118(b)(4)(C)~~7-4-120(d)(3)(B) as amended by act 1253 of 2105

<sup>21</sup> A.C.A. § ~~7-4-118(b)(4)(D)~~7-4-120(d)(3)(C) as amended by act 1253 of 2105

<sup>22</sup> A.C.A. § ~~7-4-118(b)(4)(E)~~7-4-120(d)(4)(A) as amended by act 1253 of 2105

<sup>23</sup> ~~A.C.A. § 7-4-118(e)~~



respondent fails to appear after proper service of notice, the State Board may proceed with the public hearing and render a decision in the absence of the respondent.

Any attorney representing a respondent or complainant shall file a notice of appearance as soon as possible. Service on counsel of record is equivalent of service on the person represented.

Either the State Board, the chair of the board, a board member designated by the chair or a hearing officer designated by the board shall preside at the hearing. A member of the staff shall appear at the hearing to present evidence of the asserted violation of election law by respondent.

Matters before the State Board for hearing that are similar in issues of fact or law or have identical parties may be consolidated if the board finds that consolidation would promote the just, speedy and inexpensive resolution of the proceedings and not unduly prejudice the rights of a respondent.

All requests for relief must be made in writing by motion filed with the State Board stating the action requested and the grounds relied upon. The presiding officer may conduct hearings on the motion and enter such orders as he/she deems necessary to address issues raised by the motion. However, the presiding officer will not issue dispositive orders.

The presiding officer presides at the hearing and may rule on motions, require briefs, and issue such orders as will ensure the orderly conduct of the proceedings. However, any presiding officer other than the State Board shall not enter a dispositive order.

The respondent has the right to participate or to be represented by counsel in all hearings or pre-hearing conferences related to the case, and has the right to introduce evidence of material fact, cross-examine witnesses as necessary for a full and true disclosure of the facts, present evidence in rebuttal, and, upon request by the presiding officer, may submit briefs and engage in oral argument.

The hearing will be conducted in the following manner:

1. The hearing officer will give an opening statement, briefly describing the nature of the proceedings;
2. The staff and respondent will be given the opportunity to present opening statements;
3. The staff and the respondent will present their cases in the sequence decided by the presiding officer;
4. Each witness must be sworn or affirmed by the presiding officer or the court reporter, and be subject to examination or cross-examination and questioning by the State Board. The presiding officer may limit questioning in a manner consistent with the law.
5. At the close of evidence, staff and respondent may present final arguments.

The presiding officer shall rule on the admissibility of evidence and may, when appropriate, take official notice of facts in accordance with applicable laws.

Stipulation of facts is encouraged and the State Board may make a decision based on stipulated facts.

Evidence in the proceeding must be confined to the issues set forth in the notice of the hearing sent to the respondent unless the respondent and staff waive the right to such notice or the presiding officer determines that good cause justifies expansion of the issues. Either the respondent or staff may be granted a continuance to allow for time to prepare for the additional issue.

When the respondent and staff seek admission of an exhibit nine copies of the exhibit must be provided. Each party must be allowed to examine the exhibit prior to the ruling on its admission. All exhibits admitted into evidence must be marked and entered into the record.

The respondent or staff may object to specific evidence or may request limits on the scope of the examination or cross-examination of a witness. The objection, the ruling on the objection and the reasons for the ruling will be noted in the record. The presiding officer may rule on the objection at the time it is made or may reserve the ruling until the written decision.

Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony will briefly summarize the testimony or, with permission of the presiding officer, present the testimony. If the excluded evidence consists of a document or exhibit, it shall be marked as part of an offer of proof and included in the record.

Irrelevant, immaterial, and unduly repetitive evidence will be excluded. Any other oral or documentary evidence, not privileged, may be received if it is of a type commonly relied upon by reasonably prudent men and women in the conduct of their affairs.

The State Board shall be responsible for recording the testimony heard at the hearing. Upon filing a petition for judicial review, the State Board will provide a verbatim transcript of testimony taken before the agency.

The decision of the State Board shall be reduced to a final order signed by the chair of the board, containing written findings of fact and conclusions of law stated separately. Findings of fact shall be based exclusively on the evidence and on matters officially noticed. A copy of the final order shall be served on the respondent along with any order by the State Board. The State Board shall also provide a copy of the findings and order to the complainant.

~~If the State Board does not find probable cause, it shall dismiss the complaint.~~

~~If the State Board finds a violation of election or voter registration laws under its jurisdiction, then the State Board may render one (1) or more of the following remedies:~~

- ~~(1) Issue a public letter of caution, warning, or reprimand,~~
- ~~(2) Impose a fine of not less than twenty five dollars (\$25) nor more than one thousand dollars (\$1,000) for each negligent or intentional violation,~~

- ~~(3) Report its findings and other evidence to the proper law enforcement authorities along with recommendations, or~~
- ~~(4) Assess costs for the investigation and hearing.~~<sup>24</sup>

### **§ ~~607-608~~ Imposition of Fines and Other Sanctions**

If the State Board finds a violation of election or voter registration laws under its jurisdiction, then the board may render one (1) or more of the following sanctions:

- (1) Issue a public letter of caution, warning, or reprimand;
- (2) Impose a fine of not less than twenty-five dollars (\$25) nor more than one thousand dollars (\$1,000) for each negligent, knowing or intentional violation of Title 7, Chapter 4, subchapter 1 of the Arkansas Code;
- (3) Report its findings and other evidence to the proper law enforcement authorities along with recommendations; and
- (4) Order payment of the costs for the investigation and hearing.<sup>25</sup>

The State Board may issue one or more of the above sanctions for a violation.<sup>26</sup>

In lieu of imposing the statutory sanctions set out above, the State Board may issue a letter of instruction or refer the complaint and related evidence to the proper authority when the board determines that the circumstances warrant.

In determining the imposition of fines upon a finding of a violation, the State Board may consider all surrounding circumstances including, but not limited to, the seriousness of the violation, whether the violation was intentional or negligent, whether the respondent demonstrated good faith by consulting the State Board staff or the local county board of election commissioners, whether the violation was isolated or part of a pattern, and whether the respondent showed good cause for the violation.

For violators who have not previously received a statutory sanction, fines ~~Fines for first offense violations~~ will range from not less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500) for each negligent or intentional violation. Fines for violators who have previously received a statutory sanction ~~second offense violations~~ will range from not less than five-one hundred dollars (~~\$500~~ 100) nor more than one thousand dollars (\$1,000) and will be determined on a case-by-case basis depending upon the nature and degree of the negligent or intentional violation.<sup>27</sup>

In the event a fine is not paid by the specified time, the State Board may file suit in the Pulaski County Circuit Court or in the circuit court or the small claims division of the appropriate district

<sup>24</sup> ~~A.C.A. § 7-4-118(d)~~

<sup>25</sup> A.C.A. § 7-4-120(e)(1-4) as amended by act 1253 of 2105

<sup>26</sup> A.C.A. § 7-4-120(e)(5) as amended by act 1253 of 2105

<sup>27</sup> A.C.A. § 7-4-120(h)(1) as amended by act 1253 of 2105

court of the county in which the debtor resides to obtain a judgment for the amount of any fine imposed according to its authority.<sup>28</sup>

~~The action by the court shall not involve further judicial review of the State Board's actions.~~<sup>29</sup>

The fee normally charged for the filing of a suit in any of the circuit or district courts in the State of Arkansas shall be waived on behalf of the State Board.<sup>30</sup>

All moneys received by the State Board in payment of fines shall be deposited in the State Treasury as general revenues.<sup>31</sup>

### **§ ~~608-609~~ Final Determination**

The State Board shall complete its investigation of a complaint filed according to Arkansas Code Annotated § 7-4-~~118-120~~ and take final action within one hundred eighty (180) days of the filing of the complaint, except if a public hearing is ~~conducted, all~~conducted all action on the complaint by the State Board~~board~~ shall be completed within two hundred forty (240) days.<sup>32</sup>

The State Board shall advise in writing the complainant and the respondent of the finding of the board, -final action taken, including sanctions, if any, and the reasons for the finding, final action, and sanctions, if any.<sup>33</sup>

Any final action of the State Board shall constitute an adjudication for purposes of judicial review under Arkansas Code Annotated § 25-15-212.<sup>34</sup>

### **§ ~~61009~~ Records**

The State Board shall keep a record of all inquiries, investigations, and proceedings.<sup>35</sup>

Records relating to investigations by the State Board are exempt from the Freedom of Information Act of 1967, § 25-19-101 et seq., until a hearing is set or the director's investigation is closed.<sup>36</sup>

<sup>28</sup> A.C.A. § 7-4-118(e)(2)(A)7-4-120(h)(2) as amended by act 1253 of 2105

<sup>29</sup> ~~A.C.A. § 7-4-118(e)(2)(B)~~

<sup>30</sup> A.C.A. § 7-4-118(e)(2)(C)7-4-120(h)(3) as amended by act 1253 of 2115—

<sup>31</sup> A.C.A. § 7-4-118(e)(3)7-4-120(h)(4) as amended by act 1253 of 2105

<sup>32</sup> A.C.A. § 7-4-118(f)(1), (2)7-4-120(i) as amended by act 1253 of 2105

<sup>33</sup> A.C.A. § 7-4-118(b)(4)(F)7-4-120(f) as amended by act 1253 of 2105

<sup>34</sup> ~~A.C.A. § 7-4-118(f)(3)~~

<sup>35</sup> A.C.A. § 7-4-118(g)(1)7-4-120(g) as amended by act 1253 of 2105

<sup>36</sup> A.C.A. § 7-4-118(g)(2)7-4-120(c)(2) as amended by act 1253 of 2105

The State Board may disclose, through its members or staff, otherwise confidential information to proper law enforcement officials, agencies, and bodies as may be required to conduct its investigation.<sup>37</sup>

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<sup>37</sup> A.C.A. § ~~7-4-118(e)(3)~~ 7-4-120(c)(3) as amended by act 1253 of 2105

**QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS**  
**WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE**

DEPARTMENT/AGENCY State Board of Election Commissioners

DIVISION \_\_\_\_\_

DIVISION DIRECTOR Justin Clay

CONTACT PERSON Justin Clay

ADDRESS 501 Woodlane, Suite 401N, Little Rock, AR 72201

PHONE NO. 501-682-1834 FAX NO. 501-682-1782 E-MAIL clay.sbec@sos.arkansas.gov

NAME OF PRESENTER AT COMMITTEE MEETING Justin Clay

PRESENTER E-MAIL clay.sbec@sos.arkansas.gov

**INSTRUCTIONS**

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Donna K. Davis  
Administrative Rules Review Section  
Arkansas Legislative Council  
Bureau of Legislative Research  
One Capitol Mall, 5<sup>th</sup> Floor  
Little Rock, AR 72201

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1. What is the short title of this rule? Rules For Citizen Complaints of Non-HAVA Violations of Election and Voter Registration Laws 108.00.06
2. What is the subject of the proposed rule? Procedures for providing uniform and nondiscriminatory resolution of any non-HAVA related complaint alleging a violation of election and voter registration laws in accordance with Arkansas Code Annotated §7-4-120
3. Is this rule required to comply with a federal statute, rule, or regulation? Yes ☐ No ☒  
If yes, please provide the federal rule, regulation, and/or statute citation. \_\_\_\_\_
4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes ☐ No ☒  
If yes, what is the effective date of the emergency rule? N/A
- When does the emergency rule expire? N/A

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act?

Yes ☐

No ☐

5. Is this a new rule? Yes ☐ No ☒

If yes, please provide a brief summary explaining the regulation. N/A

Does this repeal an existing rule? Yes ☐ No ☒

If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does. N/A

Is this an amendment to an existing rule?

Yes ☒ No ☐

If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. 7-4-101 and 7-4-120.

7. What is the purpose of this proposed rule? Why is it necessary? To clearly define the procedures for filing, processing, and adjudicating citizen complaints for alleged violations of election and voter registration laws.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b). www.arkansas.gov/sbec

9. Will a public hearing be held on this proposed rule? Yes ☐ No ☒

If yes, please complete the following:

Date: N/A

Time: N/A

Place: N/A

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

August 10, 2015

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

October 4, 2015

12. Do you expect this rule to be controversial? Yes ☐ No ☒

If yes, please explain.

\_\_\_\_\_

13. Please give the names of persons, groups, or organizations that you expect to comment on these rules?  
Please provide their position (for or against) if known.
-



## FINANCIAL IMPACT STATEMENT

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT** State Board of Election Commissioners

## DIVISION

**PERSON COMPLETING THIS STATEMENT** Justin Clay

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To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

<b>SHORT TITLE OF THIS RULE</b>	Rules For Citizen Complaints of Non-HAVA Violations of Election and Voter Registration Laws 108.00.06
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1. Does this proposed, amended, or repealed rule have a financial impact? Yes ☐ No ☒
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule? Yes ☒ No ☐
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes ☒ No ☐

If an agency is proposing a more costly rule, please state the following:

- (a) How the additional benefits of the more costly rule justify its additional cost;  
N/A

- (b) The reason for adoption of the more costly rule;  
N/A

- (c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;  
N/A

- (d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.  
N/A

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

- (a) What is the cost to implement the federal rule or regulation?

### Current Fiscal Year

General Revenue	N/A
Federal Funds	N/A
Cash Funds	N/A
Special Revenue	N/A
Other (Identify)	N/A

### Next Fiscal Year

General Revenue	N/A
Federal Funds	N/A
Cash Funds	N/A
Special Revenue	N/A
Other (Identify)	N/A

Total                      0.00

Total                      0.00

(b) What is the additional cost of the state rule?

**Current Fiscal Year**

General Revenue	<u>N/A</u>
Federal Funds	<u>N/A</u>
Cash Funds	<u>N/A</u>
Special Revenue	<u>N/A</u>
Other (Identify)	<u>N/A</u>
Total	<u>0.00</u>

**Next Fiscal Year**

General Revenue	<u>N/A</u>
Federal Funds	<u>N/A</u>
Cash Funds	<u>N/A</u>
Special Revenue	<u>N/A</u>
Other (Identify)	<u>N/A</u>
Total	<u>0.00</u>

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

**Current Fiscal Year**

\$ 0.00

N/A

**Next Fiscal Year**

\$ 0.00

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

**Current Fiscal Year**

\$ 0.00

N/A

**Next Fiscal Year**

\$ 0.00

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes ☐ No ☒

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
  - (a) justifies the agency's need for the proposed rule; and

- (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
  - (a) the rule is achieving the statutory objectives;
  - (b) the benefits of the rule continue to justify its costs; and
  - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.