WEST VIRGINIA CODE: §3-1-50

§3-1-50. Establishment of state-based administrative complaint procedures.

(a) The Secretary of State shall establish and maintain a state-based administrative complaint procedure for complaints received concerning election violations which shall meet the following requirements:

(1) The procedures shall be uniform and nondiscriminatory.

(2) Under the procedures, any person who believes that there is a violation of any provision of this chapter or Title III of the Help America Vote Act, Pub. L. 107-252, including a violation which has occurred, is occurring or is about to occur, may file a complaint.

(3) Any complaint filed under the procedures shall be in writing, notarized and signed and sworn by the person filing the complaint.

(4) The Secretary of State may consolidate complaints filed under this section.

(5) At the request of the complainant there shall be a hearing on the record.

(6) Violations of any provision of this chapter or Title III of the Help America Vote Act, Pub. L. 107-252 shall be punishable in accordance with the provisions of article nine of this chapter.

(7) If, under the procedures, the Secretary of State determines that there is no violation, the Secretary of State shall dismiss the complaint and publish the results of the procedures.

(8) The Secretary of State shall make a final determination with respect to a complaint prior to the expiration of the ninety-day period which begins on the date the complaint is filed unless the complainant consents to a longer period for making a determination.

(9) If the Secretary of State fails to meet the deadline applicable under subdivision (8) of this section, the complaint shall be resolved within sixty days under alternative dispute resolution procedures established for purposes of this section. The record and other materials from any proceedings conducted under the complaint procedures established under this section shall be made available for use under the alternative dispute resolution procedures.

(b) The administrative complaint procedure required by subsection (a) of this section is not applicable if, within thirty days of the filing of the complaint: (1) The Secretary of State initiates an investigation; (2) the Secretary of State determines that the allegations contained in the complaint may result in a finding of a criminal violation; and (3) the Secretary of State determines that the administrative complaint procedure required by this section would endanger or impede the associated criminal investigation: Provided, That

www.Legislature

within three business days thereafter the Secretary of State shall notify the complainant in writing that the allegations contained in the complaint may result in a finding of a criminal violation and, therefore, the administrative procedure contained in this section is inapplicable.

WV Legislature