



State of New Hampshire

2005 State Plan Draft

As required by Public Law 107-252,
Help America Vote Act 2002, Section 253 (b)

William M. Gardner
Secretary of State
State House, Room 204
Concord, NH 03301-4989

June 24, 2005



New Hampshire Secretary of State
State Plan

File: StatePlan
2005-06-24
PAF

APPENDIX A:

Compliance with HAVA Title III Requirements

The following chart provides a point-by-point summary of how New Hampshire will satisfy every requirement in Title III of HAVA.

Requirement	New Hampshire's Status <i>(Meets, Partially meets or does not meet requirements)</i>	Action Planned
SEC. 301. VOTING SYSTEMS STANDARDS		
(a) REQUIREMENTS- Each voting system used in an election for Federal office shall meet the following requirements		
(1) IN GENERAL.-		
(A) Except as provided in subparagraph (B), the voting system (including any lever voting system, optical scanning voting system, or direct recording electronic system) shall	Meets requirement.	Additional voter education and instructions planned.
(i) permit the voter to verify (in a private and independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted;		See 301 (a)(1)(B).



Requirement	New Hampshire's Status (Meets, Partially meets or does not meet requirements)	Action Planned
<p>(ii) provide the voter with the opportunity (in a private and independent manner) to change the ballot or correct any error before the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error); and</p>	<p>Meets requirement.</p>	<p>Additional voter education and instructions planned. See Section 301 (a)(1)(B).</p>
<p>(iii) if the voter selects votes for more than one candidate for a single office-- (I) notify the voter that the voter has selected more than one candidate for a single office on the ballot; (II) notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office; and (III) provide the voter with the opportunity to correct the ballot before the ballot is cast and counted.</p>	<p>Partially Meets. Non-compliant. Systems identify over-voting. Require poll workers to inform voter of the error. The Systems do not show error to voter directly.</p>	<p>The State will partially meet this requirement through installation of accessible voting systems. The State will require optical scanning systems to reject ballots with over votes.</p>
<p>(B) A State or jurisdiction that uses a paper ballot voting system, a punch card voting system, or a central count voting system (including mail-in absentee ballots and mail-in ballots), may meet the requirements of subparagraph (A)(iii) by</p>	<p>Partially meets requirement.</p>	<p>Additional voter education and instructions planned.</p>
<p>(i) establishing a voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for an office; and</p>		

Orville Fitch

From: Orville Fitch
Sent: Monday, January 22, 2018 10:29 AM
To: David Scanlan
Subject: Help America Vote Act requirement - overvoted ballots -

Dave,

The Help America Vote Act requires a state to meet the requirements for notifying a voter of the presence and consequences of an over vote by establishing a voter education program which notifies each voter of the effect of casting multiple votes for an office and, provides the voter with instructions on how to correct the ballot before it is cast, in our case through obtaining a replacement ballot.

Instructions printed on the ballot and informational material provided and posted at the polls constitute a voter education program specific to New Hampshire's voting system.

SEC. 301. VOTING SYSTEMS STANDARDS.

(a) REQUIREMENTS.—Each voting system used in an election for Federal office shall meet the following requirements:

(1) IN GENERAL.—

(A) Except as provided in subparagraph (B), the voting system (including any lever voting system, optical scanning voting system, or direct recording electronic system) shall—

...
(iii) if the voter selects votes for more than one candidate for a single office—

(I) notify the voter that the voter has selected more than one candidate for a single office on the ballot;

(II) notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office; and

(III) provide the voter with the opportunity to correct the ballot before the ballot is cast and counted.

(B) A State or jurisdiction that uses a paper ballot voting system, a punch card voting system, or a central count voting system (including mail-in absentee ballots and mail-in ballots), may meet the requirements of subparagraph (A)(iii) by—

(i) establishing a voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for an office; and

(ii) providing the voter with instructions on how to correct the ballot before it is cast and counted (including instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error).

(C) The voting system shall ensure that any notification required under this paragraph preserves the privacy of the voter and the confidentiality of the ballot.

Orville B. Fitch II
Elections Legal Counsel, Assistant Secretary of State
Secretary of State's Office
State House Room 204
107 N. Main St.
Concord, New Hampshire 03301
Bud.Fitch@sos.nh.gov
(603) 271-5335

DEPARTMENT OF JUSTICE

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

November 20, 2019

SENT VIA EMAIL AND U.S. MAIL

Deborah Sumner
474A Great Road
Jaffrey, NH 03452

Re: Request for Appeal to the Ballot Law Commission
ProLaw #: 2019140198

Dear Ms. Sumner:

On October 23, 2019, you emailed this Office requesting an appeal to the Ballot Law Commission of your concerns related to federal Help America Vote Act (or "HAVA") laws. Specifically, you have expressed concerns that New Hampshire is not in compliance with these laws.

"The State shall make a final determination with respect to a complaint prior to the expiration of the 90-day period which begins on the date the complaint is filed, unless the complainant consents to a longer period for making such a determination." 52 U.S.C.A. § 21112.

"If the State fails to meet the deadline applicable under subparagraph (H), the complaint shall be resolved within 60 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." 52 U.S.C.A. § 21112.

RSA 664:14 outlines the administrative complaint procedure, which encompasses your concern:

The attorney general may establish an administrative complaint procedure for the resolution of complaints of federal voting law violations, pursuant to the Help America Vote Act of 2002, Public Law 107-252. The attorney general may adopt administrative rules under RSA 541-A to implement the complaint resolution procedures. The ballot law commission is hereby designated as the

body providing alternative dispute resolution as required by section 402(a)(2)(I) of the Help America Vote Act of 2002, Public Law 107-252.

The combination of the above-referenced federal and state statutes means that the Ballot Law Commission has jurisdiction over a complaint only if the State does not make a final determination prior to the expiration of the 90-day period.

This Office concludes that New Hampshire is compliant with HAVA law requirements and there has been no violation.

HAVA laws outlines the voting systems requirements under 52 U.S.C.A § 21081. This provision lists three requirements for a participating state's voting system:

1. Shall permit the voter to verify (in a private and independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted;
2. Shall provide the voter with the opportunity (in a private and independent manner) to change the ballot or correct any error before the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error); and
3. If the voter selects votes for more than one candidate for a single office—shall:
 - a. notify the voter that the voter has selected more than one candidate for a single office on the ballot;
 - b. notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office; and
 - c. provide the voter with the opportunity to correct the ballot before the ballot is cast and counted.

52 U.S.C.A § 21081.

However, these three requirements are all subject to a specific exception provided under this same provision.

“A State or jurisdiction that uses a paper ballot voting system, a punch card voting system, or a central count voting system (including mail-in absentee ballots and mail-in ballots), may meet the requirements of subparagraph (A)(iii) by—

(i) establishing a voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for an office; and

(ii) providing the voter with instructions on how to correct the ballot before it is cast and counted (including instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error).”

(emphasis added).

In the first instance, New Hampshire triggers this exception because the State utilizes a paper ballot voting system.

With respect to the two requirements under this sub-provision, New Hampshire is in full compliance. There are several resources available on the Secretary of State's website, including but not limited to: (i) Election Procedure Manual; (ii) Election Statutes; and (iii) documents associated with voting in New Hampshire, which adequately notifies voters of the effect of casting multiple vote for office.

Additionally, on Election Day, all polling locations prominently display posters that detail how to mark a ballot, and instruct voters to speak with a moderator to receive another ballot if the initial one has been spoiled. There are also instructions on the ballot telling a voter his or her vote may not count if he or she votes for too many candidates in the same race.

Based on the foregoing, we conclude that New Hampshire has not violated HAVA laws and is in compliance with the above-referenced requirements.

Sincerely,



Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
(603) 271-3650
nicholas.chongyen@doj.nh.gov

cc: William M. Gardner, Secretary of State

