



ADMINISTRATIVE RULES OF MONTANA



44.3.114 COMPLAINTS

- (1) Within five working days following the receipt of a written notification from the United State's Attorney General or a person who is personally aggrieved by the noncompliance of his polling place with the Voting Accessibility Act, the Americans With Disabilities Act, and/or these rules, the Secretary of State shall transmit a copy of the notification to the appropriate election administrator.
- (2) Upon receipt of the notification, the election administrator shall forward to the Secretary of State a copy of the survey form concerning the polling place in question.
- (3) Within 30 days of receipt of the notification, the Secretary of State shall cause an independent survey of the polling place to be conducted. A report of that survey shall be provided to the complainant and the election administrator.
- (4) If the complainant requests, in writing, that further action be taken, the Secretary of State may call for a hearing in which the complainant, election administrator, representatives of the county governing body, affected groups and his office may be represented.
 - (a) The purpose of the hearing is to show cause why the particular polling place facility should be:
 - (i) denied exemption from meeting the criteria established for accessibility by these rules;
 - (ii) be denied an "accessible" rating; or
 - (iii) be declared unacceptable for use as a polling place facility and no longer utilized for that purpose.
- (5) At any time before, during, or after this process the complainant retains the right to file an action in any court of appropriate jurisdiction or to withdraw the complaint. No exhaustion of this administrative remedy is required.

Authorizing statute(s): This rule is advisory only, but may be considered a correct interpretation of the law.

13-1-202, 13-3-205, MCA

Implementing statute(s): 13-1-202, 13-3-205, MCA

History: NEW, 1986 MAR p. 462, Eff. 3/28/86; AMD, 2006 MAR p. 2671, Eff. 10/27/06.