

# American Samoa

## I. State/Territory-Based Administrative Complaint Procedures

*Section 254(a)(9) requires a description of the uniform, nondiscriminatory State/Territory-based administrative complaint procedures in effect under § 402. Deadline for compliance: Prior to certification of State Plan, but no later than January 1, 2004; no waiver permitted.*

American Samoa has developed administrative regulations to establish the required procedure to address complaints revolving around election issues. The nature of the complaints will be restricted to suspected violations of HAVA Title III and therefore pertain to the processes of voter registration, voting and election reporting. These regulations constitute a new chapter that are part of the administrative regulations governing elections, contained in Title 3 of the American Samoa Administrative Code.

These regulations satisfy the requirements of HAVA §402 by providing a uniform and nondiscriminatory complaint procedure. Under these procedures, any person who believes that there has been a violation of HAVA Title III may file a complaint. The complaint must be in writing, sworn and notarized. At the complainant's request, there will be a hearing on the record.

If there is a finding that a violation occurred or is occurring, an appropriate remedy shall be provided. Appropriate remedy will not include financial payments to complainants or civil penalties for election officials, even if it is determined that a violation of Title III has occurred. Remedies may include written findings that a violation of Title III has occurred, strategies for insuring that the violation does not re-occur, and, if it appears that the complaint is systemic, possible actions by the Election Office to eliminate or prevent future incidences.

If there is no violation, the complaint will be dismissed and the results will be published. A final determination on a complaint must be made within 90 days, and if this deadline can not be met, the complaint will proceed under alternative dispute resolution procedures.

The administrative regulations were adopted pursuant to the Administrative Procedures Act, ASCA §4.1001 et seq.

Requirements funding will be used for the hearings requirement of this section.