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COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
Harrisburg

STATEMENT OF COMPLAINT – VIOLATIONS OF TITLE III  
OF THE HELP AMERICA VOTE ACT OF 2002  
(PUBLIC LAW 107-252, 42 U.S.C. § 15301 ET SEQ.)

Under section 402(a)(2) of the Help America Vote Act of 2002 (HAVA) (42 U.S.C. § 15512(a)(2)) and section 1206.2(a) of the Pennsylvania Election Code (25 P.S. § 3046.2(a)), any person who believes that a violation of any provision of Title III of HAVA (42 U.S.C. §§ 15481-15501) has occurred, is occurring, or is about to occur, may file a complaint with the Department of State, Bureau of Commissions, Elections and Legislation. Complaints made against a local or county official or employee will be processed and considered by the Department of State under section 1206.2(b) of the Election Code (25 P.S. § 3046.2(b)). Complaints made against the Department of State will be processed and considered by the Commonwealth's Office of General Counsel under section 1206.2(c) of the Election Code (25 P.S. § 3046.2(c)).

In order for the Department of State or the Office of General Counsel to initiate complaint proceedings under section 402(a) of HAVA and section 1206.2 of the Election Code to consider possible violations of Title III of HAVA, a complainant must complete all applicable parts of this complaint form. Complaints should be typewritten or clearly printed in black or blue ink. Please state the facts briefly and clearly, and be sure to submit any documents you have to support your complaint.

YOU MUST SIGN THIS FORM, COMPLETE THE PRESCRIBED AFFIDAVIT BEFORE A LICENSED NOTARY PUBLIC OR OTHER PERSONS AUTHORIZED UNDER PENNSYLVANIA LAW TO ADMINISTER OATHS, AND RETURN THE FORM, WITH TWO COPIES, TO THE DEPARTMENT OF STATE, BUREAU OF COMMISSIONS, ELECTIONS AND LEGISLATION, 210 North Office Building, Harrisburg, PA 17120.

**THIS FORM MUST BE SIGNED UNDER OATH, NOTARIZED, AND FILLED OUT COMPLETELY IN ORDER TO BE PROCESSED. TO ASSURE PROMPT PROCESSING OF THE COMPLAINT, PLEASE FILE THE ORIGINAL AND TWO COPIES OF THE COMPLAINT WITH THE BUREAU OF COMMISSIONS, ELECTIONS AND LEGISLATION**

TYPE OF COMPLAINT (PLEASE CHECK ONE):

ALLEGATIONS MADE AGAINST COUNTY OR LOCAL OFFICIAL (S) OR EMPLOYEE (S)

ALLEGATIONS MADE AGAINST THE DEPARTMENT OF STATE

A. COMPLAINT INFORMATION

LAST NAME PA Fair Elections, Honey	FIRST NAME Heather	MIDDLE INITIAL	
STREET ADDRESS (Number and Name) 1451 Quentin Rd Ste 232			
CITY Lebanon	COUNTY	STATE PA	ZIP CODE 17042
TEL. (Include Area Code) (HOME) 717-220-8683		(WORK) 717-220-8683	

B. COMPLAINANT'S ATTORNEY, IF ANY +

LAST NAME Kaardal	FIRST NAME Erick	MIDDLE INITIAL G	
STREET ADDRESS (Number and Name) 150 South Fifth Street, Suite 3100			
CITY Minneapolis	COUNTY Hennepin	STATE MN	ZIP CODE 55402
TEL. (Include Area Code) 612-431-1074		FIRM NAME Mohrman, Kaardal & Erickson, P.A.	

+ Pro hac vice application forthcoming

C. NAME AND ADDRESS OF WITNESS, IF ANY

LAST NAME	FIRST NAME	MIDDLE INITIAL	
STREET ADDRESS (Number and Name)			
CITY	COUNTY	STATE	ZIP CODE
TEL. (Include Area Code)		If needed, is this witness willing to support your complaint by appearing at a hearing? <input type="checkbox"/> YES <input type="checkbox"/> NO	

D. NAME AND ADDRESS OF SECOND WITNESS, IF ANY

LAST NAME	FIRST NAME	MIDDLE INITIAL	
STREET ADDRESS (Number and Name)			
CITY	COUNTY	STATE	ZIP CODE
TEL. (Include Area Code)		If needed, is this witness willing to support your complaint by appearing at a hearing? <input type="checkbox"/> YES <input type="checkbox"/> NO	

NOTE: If additional witnesses are available, list names, addresses, and other pertinent data in a manner similar to above on 8 1/2" x 11" paper.





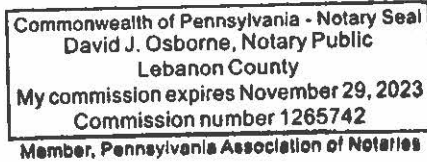


**B. AFFIDAVIT OF COMPLAINANT**

I, Heather Honey, having been duly sworn according to law, state under penalty of perjury that the facts stated in this Complaint are true and correct to the best of my knowledge, information and belief.

[Signature]  
Complainant Signature

SWORN AND SUBSCRIBED BEFORE ME THIS  
21 DAY OF August, 2023, at  
LEBANON Pennsylvania



[Signature]  
Notary Public  
My commission expires 11/29/2023

RETURN COMPLETED FORM,  
WITH TWO COPIES, TO:

Department of State  
Bureau of Commissions, Elections and Legislation  
210 North Office Building  
Harrisburg, PA 17120  
(717) 787-5280



**State of Pennsylvania**  
**Department of State, Bureau of Commissions, Elections and Legislation**

**The Verified 25 Pa. Stat. § 3046.2 Complaint of**

PA Fair Elections & Heather Honey  
1451 Quentin Rd Ste 232  
Lebanon, PA 17042  
info@pafairelections.com

**Against Complaint Respondents**

Pennsylvania Department of State  
Bureau of Election Security and Technology  
210 North Office Building, 401 North Street  
Harrisburg, PA 17120  
Phone: 717-787-5280  
Fax: 717-705-0721

Al Schmidt, Secretary of The Commonwealth, or his successor  
302 North Office Building,  
401 North Street  
Harrisburg, PA 17120  
717-787-6458

This is the attachment to items G “Description of Complaint” and A “Resolution” on page 2 of the accompanying sworn complaint form. This complaint is made under the State of Pennsylvania Department of State, Bureau of Commissions, Elections and Legislation Complaint Process and includes claims of violations of the Help America Vote Act (HAVA), 52 U.S. Code § 21083 et seq. (Pub. L. 107–252, title III, § 303, Oct. 29, 2002, 116 Stat. 1708) regarding federal elections in Pennsylvania. These violations have occurred, are occurring, and continue to occur.

**Introduction**

**The Pennsylvania Department of State violates HAVA by failing to require UOCAVA voters, including non-military UOCAVA voters, to provide identification when registering to vote.**





The Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), 52 U.S.C. §20301 et seq., 39 U.S.C § 3406, and 18 U.S.C. § 609 & 609 (Pub. L. 99-410, August 28, 1986, 100 Stat 924) provide for Americans living abroad, both military and military families, and others, to vote absentee. In Pennsylvania’s last Presidential election (2020), the state received approximately 27,000 votes through UOCAVA, with about 20,000 of those votes coming from non-military sources. Before voting, eligible citizens intending to vote through UOCAVA may register to vote and simultaneously request an absentee ballot using the Federal Post Card Application (FPCA).

The Help America Vote Act (HAVA) in 52 U.S.C. § 21083(a)(5) lays out requirements for voter registration applicants to provide information so that election officials can verify the applicant’s identity. **Exhibit 1** (Text of HAVA, 52 U.S.C. § 21083). Typically, one must register to vote before becoming a “voter,” and provide either a Driver’s License, or Social Security card to verify identity at the time of voter registration. 52 U.S.C. § 21083(a)(5)(A)(i)(I)–(II). Those qualified to vote who do not have either a driver’s license or social security card can still register to vote and be assigned a unique voter ID number by the state, when they prove their identity by alternate means. § 21083(a)(5)(A)(ii)–(iii).

HAVA requires respondents Pennsylvania Department of State and Pennsylvania Secretary of the Commonwealth, along with local election officials, to verify identities of individuals registering to vote *before* they become voters. Although persons *voting* in federal elections under UOCAVA are exempt from a requirement to provide a copy of their identification *along with* their absentee ballot, HAVA does not exempt them from providing identification *before* voting. However, Pennsylvania’s policy and procedure for processing UOCAVA registration applications and ballots allow overseas absentee votes without



verifying the identity of the prospective voter. **Exhibits 2** (HAVA Matching Directive of 2018); **3** (Department of State Response Letter to Representative Ryan, October 2022); **3** (Department of State Voter ID Guidance, September 26, 2022). The concern lies with the process that allows registering to vote and simultaneously requesting an absentee ballot using the Federal Post Card Application (FPCA) without first verifying a voter registration applicant's identity. This process leaves Pennsylvania's elections vulnerable to counting unverified votes which should not be counted, and violates HAVA's voter registration application identity verification requirement.

The Pennsylvania Department of State violates HAVA by failing to require UOCAVA voters, including non-military UOCAVA voters, to provide identification when registering to vote. Pennsylvania's procedure and practice not to verify identification information for purportedly UOCAVA-eligible voters violates common sense, corrupts Pennsylvania's HAVA-required Statewide Uniform Registry of Electors (SURE) database, and renders state elections vulnerable to ineligible votes.

### **Parties**

1. Complainant Pennsylvania Fair Elections is an association of Pennsylvania citizens concerned with the fairness and integrity of elections in Pennsylvania, including issues of election system vulnerabilities. Heather Honey is one of the founding members of Pennsylvania Fair Elections. Some members of PA Fair Elections are, or have been members of the U.S. Military.

2. Respondent Pennsylvania Department of State is the agency responsible for overseeing elections and processing voter registration applications in Pennsylvania. The Pennsylvania Department of State is responsible for a policy to direct local election officials



to not verify identification of UOCAVA voters (including non-military UOCAVA voters) *before* they vote in federal elections.

3. Respondent Secretary of the Commonwealth Al Schmidt, or his successor, is the state official responsible for the Pennsylvania Department of State policies and procedures, including enforcement of election laws. He is the state official responsible for directing local election officials by policy not to verify voter registration identification of non-military UOCAVA-eligible voters before they vote in federal elections.

### **Request for Hearing on Record**

4. Pursuant to 52 U.S.C. §21112 (a)(2)(E), the above-named complainants request a hearing on the record.

### **HAVA Violation**

*HAVA Requires Applicants to Provide Identification for Voter Registration.*

5. The Help America Vote Act (HAVA), 52 U.S. Code § 21083 et seq. (Pub. L. 107–252, title III, § 303, Oct. 29, 2002, 116 Stat. 1708), was passed, in part, to establish minimum election administration standards for State and local governments with responsibility for the administration of Federal elections.

6. An important component of HAVA established the minimum level of verification of identity and eligibility for individuals who seek to register to vote in any Federal election. *See, e.g.*, 52 U.S.C. §21083(a)(5); **Exhibit 1**.

7. An individual registers to vote by applying to register to vote.

8. An individual does not become a “voter” until they are registered to vote.

9. HAVA sets out minimum requirements for applicants registering to vote to provide information with their application for registration in 52 U.S.C. §21083(a)(5)(A).



10. Under 52 U.S.C. §21083(a)(5)(A), a voter registration application may not be accepted or processed by a state unless the application includes the following:

- If an individual has been issued a driver's license, they MUST provide their driver's license number.
- Only in the case of an individual who has not been issued a driver's license, the last four digits of the applicant's social security number may be used.
- If an individual does not possess a DL or SSN, the state may assign a unique number, but that individual may not vote in a Federal election unless they provide some other document to establish identity and eligibility.

11. HAVA also holds the Secretary of the Commonwealth responsible to match the applicant's identification numbers provided against information in official databases prior to voting in a federal election. 52 U.S.C. § 21083(a)(5)(B).

12. Section 21083(a)(5)(B)(i) of HAVA is accurately quoted as:

The chief State election official and the official responsible for the State motor vehicle authority of a State shall enter into an agreement to match information in the database of the statewide voter registration system with information in the database of the motor vehicle authority to the extent required to enable each such official to verify the accuracy of the information provided on applications for voter registration.

13. The Pennsylvania legislature and Pennsylvania Department of State have set a lesser standard than the minimum requirements set by HAVA. By doing so, the Department has issued continuing unlawful guidance to local election officials that directs local election officials not to verify the identities of individuals voting under UOCAVA *before* they vote, that is, at the time of applying for voter registration. **Exhibit 2** (HAVA Matching Directive 2018); **Exhibit 4** at page 4 (PA Dept. State, *Overview of the Uniform Military and Overseas Voters Act (UMOVA) 2022*, wherein the State direct local election officials in accordance with 25





P.A.C.S. § 3508(d) to transmit ballots with 48 hours of receiving an application, regardless of whether the regardless of whether the identity and eligibility have been confirmed).

*How do UOCAVA-Eligible Voters Vote?*

14. The Federal Post Card Application (FPCA) is the form used by members of the US military and their family members to request an absentee ballot under UOCAVA. **Exhibit 5** (FPCA). An FPCA form may be returned by physical postal mail, email, or fax.

15. Under UOCAVA, the Federal Post Card Application form can also be used by US citizens who reside outside of the United States but who are not members of the military.

16. The Federal Post Card Application form is both a voter registration form and absentee ballot application *combined* in a single document. *Id.*

17. Although the Federal Post Card Application form is *both* a voter registration form and absentee ballot application, it does not detract nor excuse a jurisdiction from meeting HAVA's minimum requirements for voter registration and minimum requirements for voters who wish to vote by mail for the first time. *See, e.g.*, 52 U.S.C. § 21083(a)(5)(A); **Exhibit 1**.

18. The Military and Overseas Voter Empowerment ("MOVE") Act in 52 U.S.C. § 20302 requires states to transmit ballots electronically (e.g., *email*) to **eligible** UOCAVA voters.

19. Email delivery of ballots both to the voter, and from the voter may be more convenient, but it renders the foreign address supplied on a Federal Post Card Application obsolete as a security feature making the identity and eligibility verification even more important in protecting the integrity of the votes of our military voters who—in every case—possess valid, government issued, verifiable photo ID.



*Who Is a UOCAVA-Eligible Voter? Would Identity Verification Be a Barrier to Their Voter Registration?*

20. In the 2020 November election, there were approximately 27,000 votes through UOCAVA in Pennsylvania. Approximately 7,000 of those votes were from members of the U.S. military or their family members, while 20,000 of those votes were from other overseas voters.

21. Non-military UOCAVA-eligible voters include study abroad students, individuals who work outside of the US, and US citizens who reside abroad.

22. Military voters and their family members who vote under UOCAVA must have valid IDs that can and must be matched to data in government databases to verify identity and eligibility.

23. Meeting HAVA's identity verification requirement would not be a barrier for voter registration for military voters.

24. Active military members, and their families as dependents (dependent identifications issued by the Department of Defense), do have valid IDs.

25. All other non-military UOCAVA applicants must be overseas at the time of the election and must provide verifiable proof of identity. This would include, for instance, passports for those who are living or traveling outside the U.S. United States, and birth certificates indicating citizenship for citizens who have never lived in the United States.

*How Pennsylvania is Violating HAVA.*

26. The Pennsylvania Department of State has violated HAVA by directing local election officials to not verify identification of UOCAVA voters (including non-military UOCAVA voters) *before* they vote in federal elections.



27. The Secretary of the Commonwealth Al Schmidt is responsible for directing local election officials by policy not to verify voter registration identification of non-military UOCAVA-eligible voters before they vote in federal elections.

28. The Pennsylvania Department of State has a practice and policy to defer the HAVA identification verification and matching requirement from the time of registration to the time of casting a ballot for first-time overseas voters. **Exhibit 2** (HAVA Matching Directive 2018).

29. The Pennsylvania Department of State changed the HAVA identification verification and matching requirement from the time of registration to the time of casting a ballot for a first-time overseas voter through a Department of State Directive. **Exhibit 2** (HAVA Matching Directive 2018).

30. The Pennsylvania Department of State has admitted that they do not verify identity of first-time overseas voters at the time of registration, but claim it is in compliance with HAVA by verifying identity and matching identification numbers prior to accepting an absentee ballot:

Under Pennsylvania law, a voter's identification is verified either the first time they vote in person in an election district or each time they request a mail-in or absentee ballot. With respect to absentee and mail-in voting, when a voter requests a ballot, county boards of elections must "determine the qualifications of the applicant by verifying the proof of identification and comparing the information provided on the application with the information contained on the applicant's permanent registration card." *See* 25 P.S. §§ 3150.12(b) (mail in) and 3146.2b(c) (absentee). This is primarily done through the automated HAVA verification process. Both provisions of the Election Code specifically state that: "For those applicants whose proof of identification was not provided with the application or could not be verified by the board, the board shall send notice to the elector *with the absentee ballot* requiring the elector to provide proof of identification with the absentee [or mail-in] ballot or the ballot will not be counted." *See* 25 P.S. §§ 3150.12b(c) (mail in) and 3146.2b(d) (absentee) (emphasis added). Therefore, while the law requires counties to provide ballots to individuals



pending verification of identity, the law also ensures that ballots submitted by voters who have not timely verified their identities will not be counted.

**Exhibit 3** (*Department of State Response Letter to Representative Ryan.*) (Emphasis in original).

31. However, 52 U.S.C. § 21083(b) applies to “voters,” that is, those who have already applied to register to vote and requires non-overseas absentee voters to present current and valid photo identification or other identity verification materials when submitting their absentee ballot, or to present valid identification when voting in-person if they registered to vote by mail.

32. HAVA has further requirements for individuals voting by mail for the first time in a jurisdiction. (ii) in the case of an individual who votes by mail, that individual submits with the ballot— (I) a copy of a current and valid photo identification; or (II) a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter. 52 U.S.C. § 21083(b)(2)(ii).

33. 52 U.S.C. § 21083(b)(2)(ii) generally requires individuals who registered to vote by mail to submit appropriate identification *with* their ballot either absentee or in-person.

34. HAVA specifically exempts UOCAVA eligible voters from the general requirement to include a photocopy of their identification with their absentee ballot. 52 U.S.C. § 21083(b)(3)(C)(i). However, one is not “entitled to vote” under UOCAVA without first being a verified voter.

35. The requirement for a photocopy or copy of identification to be sent with the absentee ballot is the **only** exemption for UOCAVA eligible voters. Paragraph § 21083(b)(3)(C)(i) does not exempt UOCAVA voters from eligibility requirements or identity verification (i.e., in Pennsylvania, for registration) prior to voting in a Federal Election.





36. Section 20302 of the UOCAV Act requires states to “accept and process, with respect to any election for Federal office, any otherwise valid voter registration application and absentee ballot application from an absent uniformed services voter or overseas voter, if the application is received by the appropriate State election official not less than 30 days before the election.” 52 U.S.C. § 20302(a)(2).

37. The Pennsylvania Department of State has directed policy and procedure to defer verification of identity (and, therefore, eligibility) for stateside absentee voters to the time of voting if no identification is initially provided. **Exhibit 3.** State policy requires flagging unverified stateside absentee ballots as unverified until county election officials verify them.

38. Per department of state policy and guidance, no UOCAVA overseas absentee ballots are flagged as unverified. *Id.*

39. Department of State Policy leads to a possibility that a UOVACA ballot is counted without the voter’s identity ever being verified either at point of registration, or at point-of-ballot.

40. While UOCAVA eligible voters are exempt from the requirement to provide a photocopy of their identification *with their ballot*, nothing in HAVA exempts UOCAVA voters from verification of eligibility or verification of identity prior to voting in a federal election as required by HAVA.

41. The Department of State claims UOCAVA voters are not required to provide proof of identification for voter registration, but this is legally inaccurate. **Exhibit 6** (Department of State Voter ID Guidance, September 26, 2022). UOCAVA



voters are not exempt from providing proof of identification prior to voting in a federal election. *See* 52 U.S.C. § 21083(b)(3)(C)(i).

42. An individual living overseas who is otherwise qualified to vote under UOCAVA is not an UOCAVA-eligible *voter* until they are registered to vote.

43. Thus, the Department of State has erred in its interpretation of HAVA and violates HAVA by failing to require proof of identification prior to voting in a federal election.

44. The Pennsylvania Department of State, through its chief election official, Secretary of the Commonwealth Al Schmidt, is violating HAVA and instructing county election officials to also violate HAVA through its directives.

#### **Relief or Resolution**

The complainant respectfully petitions for an administrative determination, declaration or declaratory judgment: (1) that Pennsylvania's Department of State and the Secretary of the Commonwealth's directives that exempt would-be UOCAVA-eligible voters from first meeting the HAVA identify-verification requirement violate HAVA; (2) that Pennsylvania's Department of State and the Secretary of the Commonwealth's directives must be corrected to a legally-compliant policy that meets the minimum HAVA identity verification requirements for voter applications; and (3) any other appropriate administrative relief.

Dated: August 21, 2023

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United States Code Annotated  
Title 52. Voting and Elections (Refs & Annos)  
Subtitle II. Voting Assistance and Election Administration (Refs & Annos)  
Chapter 209. Election Administration Improvement  
Subchapter III. Uniform and Nondiscriminatory Election Technology and Administration Requirements  
Part A. Requirements

52 U.S.C.A. § 21083  
Formerly cited as 42 USCA § 15483

§ 21083. Computerized statewide voter registration list requirements and requirements for voters who register by mail

Currentness

**(a) Computerized statewide voter registration list requirements**

**(1) Implementation**

**(A) In general**

Except as provided in subparagraph (B), each State, acting through the chief State election official, shall implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level that contains the name and registration information of every legally registered voter in the State and assigns a unique identifier to each legally registered voter in the State (in this subsection referred to as the "computerized list"), and includes the following:

- (i) The computerized list shall serve as the single system for storing and managing the official list of registered voters throughout the State.
- (ii) The computerized list contains the name and registration information of every legally registered voter in the State.
- (iii) Under the computerized list, a unique identifier is assigned to each legally registered voter in the State.
- (iv) The computerized list shall be coordinated with other agency databases within the State.
- (v) Any election official in the State, including any local election official, may obtain immediate electronic access to the information contained in the computerized list.
- (vi) All voter registration information obtained by any local election official in the State shall be electronically entered into the computerized list on an expedited basis at the time the information is provided to the local official.



(vii) The chief State election official shall provide such support as may be required so that local election officials are able to enter information as described in clause (vi).

(viii) The computerized list shall serve as the official voter registration list for the conduct of all elections for Federal office in the State.

**(B) Exception**

The requirement under subparagraph (A) shall not apply to a State in which, under a State law in effect continuously on and after October 29, 2002, there is no voter registration requirement for individuals in the State with respect to elections for Federal office.

**(2) Computerized list maintenance**

**(A) In general**

The appropriate State or local election official shall perform list maintenance with respect to the computerized list on a regular basis as follows:

(i) If an individual is to be removed from the computerized list, such individual shall be removed in accordance with the provisions of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.),<sup>1</sup> including subsections (a) (4), (c)(2), (d), and (e) of section 8 of such Act (42 U.S.C. 1973gg-6).<sup>2</sup>

(ii) For purposes of removing names of ineligible voters from the official list of eligible voters--

(I) under section 8(a)(3)(B) of such Act (42 U.S.C. 1973gg-6(a)(3)(B)),<sup>3</sup> the State shall coordinate the computerized list with State agency records on felony status; and

(II) by reason of the death of the registrant under section 8(a)(4)(A) of such Act (42 U.S.C. 1973gg-6(a)(4)(A)),<sup>4</sup> the State shall coordinate the computerized list with State agency records on death.

(iii) Notwithstanding the preceding provisions of this subparagraph, if a State is described in section 4(b) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-2(b)),<sup>5</sup> that State shall remove the names of ineligible voters from the computerized list in accordance with State law.

**(B) Conduct**

The list maintenance performed under subparagraph (A) shall be conducted in a manner that ensures that--





- (i) the name of each registered voter appears in the computerized list;
- (ii) only voters who are not registered or who are not eligible to vote are removed from the computerized list; and
- (iii) duplicate names are eliminated from the computerized list.

**(3) Technological security of computerized list**

The appropriate State or local official shall provide adequate technological security measures to prevent the unauthorized access to the computerized list established under this section.

**(4) Minimum standard for accuracy of State voter registration records**

The State election system shall include provisions to ensure that voter registration records in the State are accurate and are updated regularly, including the following:

(A) A system of file maintenance that makes a reasonable effort to remove registrants who are ineligible to vote from the official list of eligible voters. Under such system, consistent with the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.)<sup>1</sup>, registrants who have not responded to a notice and who have not voted in 2 consecutive general elections for Federal office shall be removed from the official list of eligible voters, except that no registrant may be removed solely by reason of a failure to vote.

(B) Safeguards to ensure that eligible voters are not removed in error from the official list of eligible voters.

**(5) Verification of voter registration information**

**(A) Requiring provision of certain information by applicants**

**(i) In general**

Except as provided in clause (ii), notwithstanding any other provision of law, an application for voter registration for an election for Federal office may not be accepted or processed by a State unless the application includes--

(I) in the case of an applicant who has been issued a current and valid driver's license, the applicant's driver's license number; or

(II) in the case of any other applicant (other than an applicant to whom clause (ii) applies), the last 4 digits of the applicant's social security number.

**(ii) Special rule for applicants without driver's license or social security number**



If an applicant for voter registration for an election for Federal office has not been issued a current and valid driver's license or a social security number, the State shall assign the applicant a number which will serve to identify the applicant for voter registration purposes. To the extent that the State has a computerized list in effect under this subsection and the list assigns unique identifying numbers to registrants, the number assigned under this clause shall be the unique identifying number assigned under the list.

**(iii) Determination of validity of numbers provided**

The State shall determine whether the information provided by an individual is sufficient to meet the requirements of this subparagraph, in accordance with State law.

**(B) Requirements for State officials**

**(i) Sharing information in databases**

The chief State election official and the official responsible for the State motor vehicle authority of a State shall enter into an agreement to match information in the database of the statewide voter registration system with information in the database of the motor vehicle authority to the extent required to enable each such official to verify the accuracy of the information provided on applications for voter registration.

**(ii) Agreements with Commissioner of Social Security**

The official responsible for the State motor vehicle authority shall enter into an agreement with the Commissioner of Social Security under section 405(r)(8) of Title 42 (as added by subparagraph (C)).

**(C) Omitted**

**(D) Special rule for certain States**

In the case of a State which is permitted to use social security numbers, and provides for the use of social security numbers, on applications for voter registration, in accordance with section 7 of the Privacy Act of 1974 (5 U.S.C. 552a note), the provisions of this paragraph shall be optional.

**(b) Requirements for voters who register by mail**

**(1) In general**

Notwithstanding section 6(c) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4(c))<sup>6</sup> and subject to paragraph (3), a State shall, in a uniform and nondiscriminatory manner, require an individual to meet the requirements of paragraph (2) if--



(A) the individual registered to vote in a jurisdiction by mail; and

(B)(i) the individual has not previously voted in an election for Federal office in the State; or

(ii) the individual has not previously voted in such an election in the jurisdiction and the jurisdiction is located in a State that does not have a computerized list that complies with the requirements of subsection (a).

**(2) Requirements**

**(A) In general**

An individual meets the requirements of this paragraph if the individual--

(i) in the case of an individual who votes in person--

(I) presents to the appropriate State or local election official a current and valid photo identification; or

(II) presents to the appropriate State or local election official a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter; or

(ii) in the case of an individual who votes by mail, submits with the ballot--

(I) a copy of a current and valid photo identification; or

(II) a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter.

**(B) Fail-safe voting**

**(i) In person**

An individual who desires to vote in person, but who does not meet the requirements of subparagraph (A)(i), may cast a provisional ballot under section 21082(a) of this title.

**(ii) By mail**

An individual who desires to vote by mail but who does not meet the requirements of subparagraph (A)(ii) may cast such a ballot by mail and the ballot shall be counted as a provisional ballot in accordance with section 21082(a) of this title.



**(3) Inapplicability**

Paragraph (1) shall not apply in the case of a person--

(A) who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4)<sup>7</sup> and submits as part of such registration either--

(i) a copy of a current and valid photo identification; or

(ii) a copy of a current utility bill, bank statement, government check, paycheck, or government document that shows the name and address of the voter;

(B)(i) who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4)<sup>7</sup> and submits with such registration either--

(I) a driver's license number; or

(II) at least the last 4 digits of the individual's social security number; and

(ii) with respect to whom a State or local election official matches the information submitted under clause (i) with an existing State identification record bearing the same number, name and date of birth as provided in such registration; or

(C) who is--

(i) entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act;

(ii) provided the right to vote otherwise than in person under section 20102(b)(2)(B)(ii) of this title; or

(iii) entitled to vote otherwise than in person under any other Federal law.

**(4) Contents of mail-in registration form**

**(A) In general**

The mail voter registration form developed under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4)<sup>7</sup> shall include the following:





(i) The question “Are you a citizen of the United States of America?” and boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States.

(ii) The question “Will you be 18 years of age on or before election day?” and boxes for the applicant to check to indicate whether or not the applicant will be 18 years of age or older on election day.

(iii) The statement “If you checked ‘no’ in response to either of these questions, do not complete this form.”.

(iv) A statement informing the individual that if the form is submitted by mail and the individual is registering for the first time, the appropriate information required under this section must be submitted with the mail-in registration form in order to avoid the additional identification requirements upon voting for the first time.

**(B) Incomplete forms**

If an applicant for voter registration fails to answer the question included on the mail voter registration form pursuant to subparagraph (A)(i), the registrar shall notify the applicant of the failure and provide the applicant with an opportunity to complete the form in a timely manner to allow for the completion of the registration form prior to the next election for Federal office (subject to State law).

**(5) Construction**

Nothing in this subsection shall be construed to require a State that was not required to comply with a provision of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.)<sup>1</sup> before October 29, 2002, to comply with such a provision after October 29, 2002.

**(c) Permitted use of last 4 digits of social security numbers**

The last 4 digits of a social security number described in subsections (a)(5)(A)(i)(II) and (b)(3)(B)(i)(II) shall not be considered to be a social security number for purposes of section 7 of the Privacy Act of 1974 (5 U.S.C. 552a note).

**(d) Effective date**

**(1) Computerized statewide voter registration list requirements**

**(A) In general**

Except as provided in subparagraph (B), each State and jurisdiction shall be required to comply with the requirements of subsection (a) on and after January 1, 2004.

**(B) Waiver**



If a State or jurisdiction certifies to the Commission not later than January 1, 2004, that the State or jurisdiction will not meet the deadline described in subparagraph (A) for good cause and includes in the certification the reasons for the failure to meet such deadline, subparagraph (A) shall apply to the State or jurisdiction as if the reference in such subparagraph to "January 1, 2004" were a reference to "January 1, 2006".

**(2) Requirement for voters who register by mail**

**(A) In general**

Each State and jurisdiction shall be required to comply with the requirements of subsection (b) on and after January 1, 2004, and shall be prepared to receive registration materials submitted by individuals described in subparagraph (B) on and after the date described in such subparagraph.

**(B) Applicability with respect to individuals**

The provisions of subsection (b) shall apply to any individual who registers to vote on or after January 1, 2003.

**CREDIT(S)**

(Pub.L. 107-252, Title III, § 303, Oct. 29, 2002, 116 Stat. 1708.)

**Footnotes**

- 1 Redesignated as 52 U.S.C.A. § 20501 et seq.
- 2 Redesignated as 52 U.S.C.A. § 20507.
- 3 Redesignated as 52 U.S.C.A. § 20507(a)(3)(B).
- 4 Redesignated as 52 U.S.C.A. § 20507(a)(4)(A).
- 5 Redesignated as 52 U.S.C.A. § 20503(b).
- 6 Redesignated as 52 U.S.C.A. § 20505(c).
- 7 Redesignated as 52 U.S.C.A. § 20505.

52 U.S.C.A. § 21083, 52 USCA § 21083

Current through P.L. 118-7. Some statute sections may be more current, see credits for details.





DIRECTIVE CONCERNING HAVA-MATCHING  
DRIVERS' LICENSES OR SOCIAL SECURITY NUMBERS  
FOR VOTER REGISTRATION APPLICATIONS

Pursuant to Section 1803(a) of Act 3 of 2002, 25 Pa.C.S. § 1803(a), the following Directive is issued by the Department of State to clarify and specify legal processes relating to HAVA-matching of drivers' license numbers (or PennDOT ID card numbers) and Social Security numbers when voters submit new voter registration applications or an application to reactivate a cancelled record.

**This Directive underscores that Pennsylvania and federal law are clear that voter registrations may *not* be rejected based solely on a non-match between the applicant's identifying numbers on their application and the comparison database numbers.**

As stated in the Department of State's August 9, 2006 *Alert Re: Driver's License and Social Security Data Comparison Processes Required by The Help America Vote Act (HAVA)*, HAVA requires only the following:

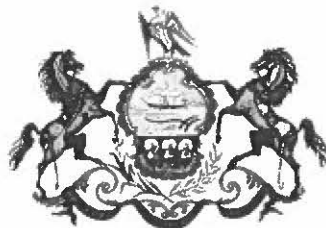
- (1) that all applications for new voter registration include a current and valid PA driver's license number, the last four digits of the applicant's social security number, or a statement indicating that the applicant has neither a valid and current PA driver's license or social security number; and
- (2) that voter registration commissions compare the information provided by an applicant with the Department of Transportation's driver's license database or the database of the Social Security Administration.

HAVA's data comparison process "was intended as an administrative safeguard for 'storing and managing the official list of registered voters,' and not as a restriction on voter eligibility." *Washington Ass'n of Churches v. Reed*, 492 F.Supp.2d 1264, 1268 (W.D. Wash. 2006).

**Counties must ensure their procedures comply with state and federal law, which means that if there are no independent grounds to reject a voter registration application other than a non-match, the application may *not* be rejected and must be processed like all other applications.**

It is important to remember that any application placed in 'Pending' status while a county is doing follow-up with an applicant whose driver's license or last four of SSN could not be matched **MUST** be accepted, unless the county has identified another reason to decline the application. Leaving an application in Pending status due to a non-match is effectively the same as declining the application while denying the applicant access to the statutory administrative appeals process, and as described above is **not** permitted under state and federal law.





COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE

October 28, 2022

The Honorable Francis X. Ryan  
Pennsylvania House of Representatives  
149A East Wing  
Harrisburg, PA 17120

Dear Representative Ryan:

I write with respect to your undated letter that the Department of State (Department) received on October 25, 2022, regarding your concern about the process used to ensure that “only qualified, legal voters vote in the 2022 General Election.” The Department shares your concern that only qualified voters vote in the upcoming election. As you should be aware, the processes used to ensure that this is the case are carefully prescribed by both federal and state law. Your claims reflect a misunderstanding of the laws guiding processes surrounding voter registration and absentee/mail-in ballot applications. Further, your claim that counties have mailed “over 240,000 unverified ballots” is incorrect and reflects a misunderstanding of the law and data. Finally, your claim that Deputy Secretary Jonathan Marks’ testimony before the House State Government Committee is somehow contradicted by the Department’s Guidance is also incorrect. Please allow me to explain.

Among the laws that govern election administration in Pennsylvania, the Help America Vote Act (“HAVA”), 52 U.S.C. § 20901 *et. seq.*, ensures that eligible voters are not disenfranchised, and that voting and election administration systems will “be the most convenient, accessible, and easy to use for voters” and “will be nondiscriminatory and afford each registered and eligible voter an equal opportunity to vote and have that vote counted.” 52 U.S.C. § 20981. Among its provisions, Section 21083(a)(1)(A) of HAVA requires states to maintain a centralized, computerized list of every legally registered voter in the state. Section 21083(a)(5)(A) requires states to obtain from prospective registrants either a driver’s license number (“DL”), the last four digits of a social security number (“SSN4”) or, if the applicant has neither, a statement reflecting such. Individuals who do not have DLs or SSN4s cannot be denied registration merely because they do not have a DL or SSN4; rather, HAVA specifically requires that such individuals be assigned a number to identify them for voter registration purposes. See 52 U.S.C. § 21083(a)(5)(A)(ii).

The Department’s 2018 directive that you reference, entitled *Directive Concerning HAVA – Matching Drivers’ Licenses or Social Security Numbers for Voter Registration Applications* (“Directive”), guides county boards of election in their duties to determine whether voters are qualified to vote under





state law, so counties can make decisions on registration applications. See 25 Pa.C.S. §§ 1328, 1301. As explained in the Directive, counties may not deny a registration application solely because the applicant does not provide a DL or SSN4, or because the numbers provided do not match. In fact, denying registration on that basis would violate HAVA and state law.

Under Pennsylvania law, a voter's identification is verified either the first time they vote in person in an election district or each time they request a mail-in or absentee ballot. With respect to absentee and mail-in voting, when a voter requests a ballot, county boards of elections must "determine the qualifications of the applicant by verifying the proof of identification and comparing the information provided on the application with the information contained on the applicant's permanent registration card." See 25 P.S. §§ 3150.12(b) (mail in) and 3146.2b(c) (absentee). This is primarily done through the automated HAVA verification process. Both provisions of the Election Code specifically state that: "For those applicants whose proof of identification was not provided with the application or could not be verified by the board, the board shall send notice to the elector *with the absentee ballot* requiring the elector to provide proof of identification with the absentee [or mail-in] ballot or the ballot will not be counted." See 25 P.S. §§ 3150.12b(c) (mail in) and 3146.2b(d) (absentee) (emphasis added). Therefore, while the law requires counties to provide ballots to individuals pending verification of identity, the law also ensures that ballots submitted by voters who have *not* timely verified their identities will not be counted.

The Department's Guidance, which has been in existence since September of 2020 and is available on the Department's publicly accessible website, tracks these statutory requirements. Namely, the Department's September 26, 2022 *Guidance Concerning Civilian Absentee and Mail-In Ballot Procedures* (originally issued in September of 2020) specifically states as follows: "If proof of identification for an absentee or mail-in voter was not received or could not be verified, the ballot should not be counted unless the elector provided proof of identification, that can be verified by the county board, by the sixth calendar day following Election Day."

Your letter, however, ignores both these well-established laws, and the Department's relevant guidance. Instead, your letter appears to focus on language contained in another document entitled *Examination of Absentee and Mail-In Ballot Return Envelopes*. As indicated by the title, that document provides guidance to counties regarding the examination of absentee and mail-in ballot *return envelopes*, not applications. The section that you cite simply provides broad background information to ensure that election workers are aware that the ID verification process occurs as part of the ballot application process and is not related to envelope examination. Counties must and do reject mail-in and absentee ballots from individuals whose proof of identification could not be verified. In any event, nothing in that latter Guidance is inaccurate; the county boards of elections utilize multiple methods to verify that the qualified voter's absentee or mail-in application is complete and statutory requirements are satisfied. Again, under state law, no ballots cast by voters may be counted unless their identity is verified within six days after the election.

Further, nothing about Deputy Secretary Marks' testimony is incorrect. As Deputy Secretary Marks testified, it is important to understand that there are two distinct processes at play: (1) voter registration—for which there is no federal or state requirement that DL or SSN4 match or even that a voter have such numbers; and (2) mail-in and absentee applications—where the county is required, pursuant to the Election Code, to issue a ballot even before proof of identification has been provided or



verified. Again, ballots will not count unless the voter provides verification of identification within six calendar days of the election. See 25 P.S. § 3146.8(h).

In sum, state law permits voters' identification to be verified at different points along the mail-in/absentee balloting process. Further, the Department's Guidance specifically states that if proof of identification is not received or cannot be verified for an absentee and mail-in voter, and such proof is not provided by the sixth calendar day after the election, those ballots should not be counted. To the extent you are aware of counties that fail to follow this Guidance, please let me know, and the Department will follow up with those counties.

With respect to your claim that as of October 21, 2022, 240,000 ballots are classified as "Not Verified", this reflects a misunderstanding of the SURE System data. As an initial matter, your letter does not clearly delineate how you arrived at this number. In any event, in contrast to your assertion, at no point in the SURE system is "NV" used to indicate that a mail ballot voter's proof of identification will not be verified. Assuming that you are citing a Department of State daily report from SURE that shows, among other things, the number of online requests that have been submitted for mail-in and absentee ballots, the SURE system assigns the application type "NV" under a number of different situations, all of which ensure that voters' identifications are properly verified.

For example, the system assigns the "NV" code to identify online mail ballot applications that were not processed and validated through a cross reference with PennDOT's system. This code identifies applications that require further identification check. Further, the system may assign the "NV" to applications of "permanent mail voters" to ensure that verification occurs for every election in which those permanent voters will vote. Thus, the NV coding ensures that general election ballot applications of voters on the permanent mail-in or absentee list (who request mail ballots for both the primary and general election) go through ID verification in each election. In this case, the "NV" designation denotes that the system or the county must verify identification for these permanent voters for the general election. Notably, the code does not reflect the results of any identification check but is, in fact, an additional mechanism to ensure that counties are properly verifying ID provided by voters.

Using these processes, the vast majority of mail-in and absentee ballot applications are identity-verified before the ballots are sent to voters. As Deputy Secretary Marks testified, only the small number of voters who either have no DL or SSN4, or whose DL or SSN4 have been mismatched, require further verification. The Election Code requires those voters to provide proof of identification within six days of the election. If they do not do so, their votes will not be counted. 25 P.S. § 3146.8(h). In fact, the SURE system has a hard-stop function that will not allow a ballot from a voter without verified identification to be counted.

Finally, in contrast to the assertions in your letter, as of today, there are less than 7,600 ballot applications statewide that still require voter identity verification as provided by law. Please keep in mind that this is simply a point-in-time number, which will continue to decrease as the election gets closer and as voters provide required proof of identification. As stated above, any ballots without verified identification are not counted.

In summary: 1) neither HAVA nor Pennsylvania law requires or permits a county to reject voter registration applications based on a DL or SSN4 mismatch; 2) the Election Code requires counties to verify proof of identification for mail-in and absentee electors before counting their ballots; 3) the



Election Code requires counties to issue a mail-in/absentee ballot to an elector whose identification cannot be verified at the time of application, but also requires counties to notify those voters that proof of identification is required; 4) identification of a mail-in or absentee ballot elector may be (and most often is) verified through an automatic process at the time of application but can be verified up to six days after the election; 5) the SURE system will not permit a ballot from an elector whose identification has not been verified to be counted; and 6) the "NV" code does not indicate that an elector's identification is currently unverified.

I trust this letter resolves your concerns. The Department's Guidance is correct and already does direct the counties not to count ballots where a voter's proof of identification is not validated. There is no reason to "correct" it or to issue any further directive in this regard. Nor will the Department entertain your other requests for information. As you recognize, the election is only a few days away. The Department and the counties are working tirelessly to ensure that all Pennsylvanians who are qualified under the law to vote have their vote counted. We should all share that goal. Making claims that misconstrue facts and reflect an ignorance of the law are not conducive to achieving it.

Sincerely,

Leigh M. Chapman  
Acting Secretary of the Commonwealth

CC: Representative Dawn Keefer  
Representative Barb Gleim  
Representative Perry Stambaugh  
Representative Craig Staats  
Representative Andrew Lewis  
Representative Kathy Rapp  
Representative Tracy Pennycuick  
Representative Joseph Hamm  
Representative David Rowe  
Representative Leslie Rossi  
Representative Barry Jozwiak  
Representative Mike Puskaric  
Representative Eric Nelson  
Representative Mike Jones





# Overview of the Uniform Military and Overseas Voters Act (UMOVA)

Date: September 26, 2022

Version: 1.0





## Background

The federal Uniformed and Overseas Citizens Absentee Voting Act of 1986 (UOCAVA) requires that states and territories allow military and overseas citizens to register and vote by absentee ballot in elections for Federal offices. Additionally, in 2009, Congress passed the Military and Overseas Voter Empowerment Act (MOVE), which amended UOCAVA to establish new voter registration and absentee ballot procedures which states must follow in all federal elections. These federal laws, however, do not apply to state and local elections.

To address this issue, the Pennsylvania General Assembly passed the **Uniform Military and Overseas Voters Act (UMOVA)**, which was signed into law on October 24, 2012. UMOVA extends to state and local elections the accommodations and protections for military and overseas voters found in federal law. UMOVA applies to all elections conducted in Pennsylvania and helps to ensure compliance with UOCAVA and MOVE.

Below is a helpful overview of UMOVA, including important information on who is covered under UMOVA and the requirements for compliance with UMOVA. Statutory references are also included for convenience.

## Who is covered under UMOVA?

Covered voters include all the following:

- (1) A uniformed-service voter who is registered to vote in the Commonwealth;
- (2) An overseas voter who is registered to vote in the Commonwealth;
- (3) A uniformed-service voter who is not registered to vote in the Commonwealth but who otherwise satisfies the voter eligibility requirements of this Commonwealth;  
and
- (4) An overseas voter who is not registered to vote in the Commonwealth but who otherwise satisfies the voter eligibility requirements of this Commonwealth.

See 25 Pa.C.S. § 3502.

*NOTE: UMOVA does not cover federal voters. Federal voters are covered by UOCAVA alone. Federal voters can only vote for federal offices (President, Vice President, U.S. Senator, and Representative in Congress). Please refer to the Department of State's Guidance on Federal Voters Under UOCAVA for more detailed information on federal voters.*

## Who is a Uniformed-Service Voter?

A uniformed-service voter is a qualified elector who is one of the following:



- (1) A member of the active or reserve components of the Army, Navy, Air Force, Marine Corps or Coast Guard of the United States who is on active duty;
- (2) A member of the United States merchant marine, the Commissioned Corps of the Public Health Service of the Department of Health and Human Services or the Commissioned Corps of the National Oceanic and Atmospheric Administration of the United States;
- (3) A member on activated status of the National Guard or Pennsylvania National Guard.
- (4) A spouse or dependent of an individual referred to in (1), (2), or (3); or
- (5) A veteran of a uniformed service (see 1, 2 and 3 above) who is bedridden or hospitalized due to illness or physical disability.

See 25 Pa.C.S. § 3502.

*NOTE: The inclusion of a bedridden or hospitalized veteran of a uniformed service (5, above) is unique to UMOVA, as this voter is not covered under UOCAVA.*

### Who is an overseas voter?

An overseas voter is an individual who possess all the qualifications for voting in this Commonwealth (or who, by the next ensuing election, obtains all the qualifications) who is outside the United States. See 25 Pa.C.S. § 3502.

### What elections are covered by UMOVA?

General elections, municipal elections, special elections, and primary elections held in the Commonwealth. See 25 Pa.C.S. §§ 3502, 3508(a).

### How do you become a covered voter?

To receive the benefits of a covered voter under UMOVA, the voter must inform the appropriate county board of election of their status as a covered voter. Methods of informing the appropriate county election board include all of the following:

- (1) The use of a Federal Post Card Application (FPCA) or a Federal Write-In Absentee Ballot (FWAB);
- (2) The use of an overseas address on an approved voter registration application or ballot application; and
- (3) The inclusion on an approved voter registration application or ballot application of other information sufficient to identify the voter as a covered voter.

See 25 Pa.C.S. § 3506(e).

### Are covered voters required to register to vote?

Yes, covered voters who wish to vote in an election must be registered to vote in the Commonwealth by the voter registration deadline in the Election Code. However, neither an active uniformed-service voter nor a veteran of a uniformed service who is



bedridden or hospitalized due to illness or physical disability is required to register to vote. See 25 Pa.C.S. § 3505(a).

### How can a covered voter register to vote?

Covered voters may register to vote in-person at their county board of elections, by mail using a Voter Registration Mail Application (VRMA) or any other method prescribed by Pennsylvania law.

Additionally, a covered voter may use the FPCA to register to vote and apply for a military-overseas ballot at the same time. See 25 Pa.C.S. § 3505(b)(1).

A uniformed-service voter may use the FWAB to register to vote and to vote at the same time. See 25 Pa.C.S. § 3505(b)(2).

### What is a military-overseas ballot?

A military-overseas ballot includes all the following:

- (1) FWAB;
- (2) A special write-in absentee ballot;
- (3) A ballot specifically prepared or distributed for use by a covered voter in accordance with UMOVA; and
- (4) A ballot cast by a covered voter in accordance with UMOVA.

See 25 Pa.C.S. § 3502.

### How do you apply for a military-overseas ballot?

Covered voters who are registered to vote in the Commonwealth may apply for a military-overseas ballot using either an absentee ballot application or the FPCA. See 25 Pa.C.S. § 3506(a).

Covered voters who are not registered to vote in the Commonwealth may use a FPCA to both register to vote and apply for a military-overseas ballot simultaneously. See 25 Pa.C.S. § 3506(b).

A uniformed-service voter may use the FWAB to apply for a military-overseas ballot and vote at the same time. See 25 Pa.C.S. § 3506(d).

### When can covered voters apply for a military-overseas ballot?

A covered voter may apply for a military-overseas ballot at any time prior to an election. See 25 Pa.C.S. § 3507(a).

### May a covered voter make a standing request?

Yes, a county board of elections must provide a military-overseas ballot to a voter who makes a standing request for each applicable election. An application for a military-overseas ballot for a primary election must be considered a standing request for a



military-overseas ballot for a special election, a general election or a municipal election, occurring subsequently to the primary election in the same calendar year. However, an application for an election that occurs prior to a primary, for example a special election, is not considered a standing request for subsequent elections in the same calendar year. See 25 Pa.C.S. § 3507(b).

### When are counties required to transmit military-overseas ballots?

The counties must begin to transmit a ballot and balloting materials to all covered voters not later than 45 days before the election, who by that date submit a valid military-overseas ballot application. Because the 45<sup>th</sup> day before the election falls on a Saturday, Sunday or holiday, the ballots and balloting materials must be transmitted not later than the business day preceding the 45<sup>th</sup> day. See 25 Pa.C.S. § 3508(a)(1).

*HOWEVER, in federal elections years, even though the 45<sup>th</sup> day falls on a Saturday, the U.S. Department of Justice interprets UOCAVA to require that ballots and balloting materials be sent on Saturday for any voters whose applications are received on that date.*

For covered voters in extremely remote or isolated areas, the counties must begin to transmit a ballot and balloting materials not later than 50 days before a primary election and not later than 70 days before a general or municipal election, to those voters who by that date submit a valid military-overseas ballot application. If the 50<sup>th</sup> or 70<sup>th</sup> day falls on a Saturday, Sunday or holiday, the ballots and balloting materials must be transmitted on the business day preceding the 50<sup>th</sup> and 70<sup>th</sup> day, respectively. See 25 Pa.C.S. § 3508(b)(1).

### How do counties transmit ballots?

A covered voter may request the means of transmission for their ballot and balloting materials, including by mail or by internet delivery. See 25 Pa.C.S. § 3508(c).

### What are the requirements for transmitting ballots to applicants who apply after the county begins transmitting ballots?

Ballot applications from covered voters received by county boards of election after the transmission of ballots begins (See **When are the counties required to transmit military overseas ballots?** above) must transmit a ballot and ballot materials to the voter not later than 48 hours after the application is *received*. See 25 Pa.C.S. § 3508(d).

*NOTE: UMOVA requires transmission of ballots within 48 hours after the application is RECEIVED, whereas UOCAVA (52 U.S.C. § 20302(a)(8)(B)) requires that the county board of elections deliver or mail the ballot within 48-hours after APPROVAL OF THE APPLICATION.*





### When must ballots be cast by covered voters to be timely?

To be valid, the voter must submit the ballot for mailing or other authorized means of delivery *not later than 11:59 P.M.* the day before the election. See 25 Pa.C.S. § 3509(2).

A military-overseas ballot delivered by the voter, in-person, to the appropriate county board of elections no later than the close of the polls on Election Day, is also valid. See 25 Pa.C.S. § 3509(1).

### What is the deadline for the county board of elections to receive a voted ballot?

A valid military-overseas ballot (refer to **When must ballots be cast by voters to be timely?** above) must be delivered to the appropriate county board of elections by 5 p.m. on the seventh (7<sup>th</sup>) day following the election, to be counted. See 25 Pa.C.S. § 3511(a).

### Are there any postmark requirements?

No, provided that, at the time of completing the military-overseas ballot and balloting materials, the voter declared under penalty of perjury that the ballot was timely submitted, the ballot may not be rejected on the basis that it has no postmark, an unreadable postmark or no postmark. See 25 Pa.C.S. § 3511(b).

### Are there any notice requirements?

Yes, county boards of elections must facilitate voting with the FWAB by making available to covered voters a list of the offices and issues to be voted on at the upcoming election. The election notice must be prepared at least 90 days before an election and posted to the county board's website. See 25 Pa.C.S. § 3514. County boards must update the 90-day notice as soon as the county obtains a list of candidates from the Secretary of the Commonwealth (i.e., no later than 70 days before the election) and must continue to update the notice if changes to the ballot occur. See 25 Pa.C.S. § 3514(c).

###

Version	Date	Description
1.0	9.26.2022	Conversion of county memo into guidance form



# Voter Registration and Absentee Ballot Request

Federal Post Card Application (FPCA)

This form is for absent Uniformed Service members, their families, and citizens residing outside the United States. It is used to register to vote, request an absentee ballot, and update your contact information. See your state's guidelines at FVAP.gov.

Print clearly in blue or black ink, please see back for instructions.

**1. Who are you? Pick one.**

I request an absentee ballot for all elections in which I am eligible to vote AND:  I am on active duty in the Uniformed Services or Merchant Marine -OR-  I am an eligible spouse or dependent.  I am a U.S. citizen living outside the country, and I intend to return.  I am a U.S. citizen living outside the country, and my intent to return is uncertain.  I am a U.S. citizen living outside the country, I have never lived in the United States.

Last name  Suffix (Jr., II)   Mr.  Miss  Mrs.  Ms.

First name  Previous names (if applicable)

Middle name  Birth date (MM/DD/YYYY)

Social Security Number  Driver's license or State ID#

**2. What is your address in the U.S. state or territory where you are registering to vote and requesting an absentee ballot?**

Your voting materials will not be sent to this address. See instructions on the other side of form.

Street address  Apt #

City, town, village  State

County  ZIP

**3. Where are you now? You MUST give your CURRENT address to receive your voting materials.**

Your mailing address. (Different from above)  Your mail forwarding address. (If different from mailing address)

**4. What is your contact information? This is so election officials can reach you about your request.**

Provide the country code and area code with your phone and fax number. Do not use a Defense Switched Network (DSN) number.

Email:  Phone:

Alternate email:  Fax:

**5. What are your preferences for upcoming elections?**

A. How do you want to receive voting materials from your election office? (Select One)  Mail  Email or online  Fax

B. What is your political party for primary elections?

**6. What additional information must you provide?**

Puerto Rico and Vermont require more information, see back for instructions. *Additional state guidelines* may be found at FVAP.gov. You may also use this space to clarify your voter information.

**7. You must read and sign this statement.**

**I swear or affirm, under penalty of perjury, that:**

- The information on this form is true, accurate, and complete to the best of my knowledge. I understand that a material misstatement of fact in completion of this document may constitute grounds for conviction of perjury.
- I am a U.S. citizen, at least 18 years of age (or will be by the day of the election), eligible to vote in the requested jurisdiction, and
- I am not disqualified to vote due to having been convicted of a felony or other disqualifying offense, nor have I been adjudicated mentally incompetent; or if so, my voting rights have been reinstated; and
- I am not registering, requesting a ballot, or voting in any other jurisdiction in the United States, except the jurisdiction cited in this voting form.

**Sign here** X  **Today's date** (MM/DD/YYYY)



## You can vote wherever you are.

### 1. Fill out your form completely and accurately.

- Your U.S. address is used to determine where you are eligible to vote absentee. For military voters, it is usually your last address in your state of legal residence. For overseas citizens, it is usually the last place you lived before moving overseas. You do not need to have any current ties with this address. DO NOT write a PO Box # in section 2.
- Most states allow you to provide a Driver's License number or the last 4 digits of your SSN. New Mexico, Tennessee, and Virginia require a full SSN.
- If you cannot receive mail at your current mailing address, please specify a mail forwarding address.
- Many states require you to specify a political party to vote in primary elections. This information may be used to register you with a party.
- **Section 6 Requirements:** If your voting residence is Vermont, you must acknowledge the following by writing in section 6: "I swear or affirm that I have taken the Vermont Voter's Oath." If your voting residence is in Puerto Rico, you must list your mother's and father's first name.
- We recommend that you complete and submit this form every year while you are an absentee voter.

### 2. Remember to sign this form!

### 3. Return this form to your election official. You can find their contact information at FVAP.gov.

- Remove the adhesive liner from the top and sides. Fold and seal tightly. If you printed the form, fold it and seal it in an envelope.
- All states accept this form by mail and many states accept this form by email and fax. See your state's guidelines at FVAP.gov.

### Agency Disclosure Statement

The public reporting burden for this collection of information, OMB Control Number 0704-0503, is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or burden reduction suggestions to the Department of Defense, Washington Headquarters Services, at [whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil](mailto:whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil). Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number. DO NOT SUBMIT YOUR FORM TO THE E-MAIL ADDRESS ABOVE.

### Privacy Advisory

When completed, this form contains personally identifiable information and is protected by the Privacy Act of 1974, as amended.

**Questions?**  
**Email: [vote@fvap.gov](mailto:vote@fvap.gov)**

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(Fill in the address of your election office.  
 The address can be found online at FVAP.gov.)

To

NO POSTAGE NECESSARY IN THE U.S. MAIL - DMM 703.8.0

OFFICIAL ABSENTEE BALLOTING MATERIAL - FIRST CLASS MAIL



International airmail postage is required if not mailed using the U.S. Postal Service, APO/FPO/DPO system, or diplomatic pouch.

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(Your name and mailing address)

From

U.S. Postage Paid  
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## VOTER IDENTIFICATION REQUIREMENTS FOR VOTING

### IDENTIFICATION REQUIREMENTS FOR IN-PERSON VOTING AT THE POLLING PLACE

**Voters do not need to show photo identification at the polling place. Poll workers should not ask every voter for photo identification.**

In 2014, the Commonwealth Court held that the in-person proof of identification requirements enacted under Act 18 of 2012 were unconstitutional. Those provisions are no longer in force even though ***you may see them in Pennsylvania's Election Code.***

The Court's ruling on proof of identification ***applies only to identification requirements for voters who appear to vote at their polling place.*** As a result of the ruling, the previous rules regarding identification requirements for first-time voters at the polling place remain in effect.

If a voter is voting for the **first time in an election district, the voter must show proof of identification, either photo or non-photo identification.** Returning voters need not show any identification unless otherwise noted in the poll book.

Forms of photo identification include:

- Pennsylvania driver's license or PennDOT ID card
- ID issued by any Commonwealth agency
- ID issued by the U.S. Government
- U.S. passport
- U.S. Armed Forces ID
- Student ID
- Employee ID

A non-photo identification that includes the voter's name and address is also acceptable.

Forms of non-photo identification include:

- Voter registration card issued by the County Voter Registration Office
- Non-photo ID issued by the U.S. Government
- Non-photo ID issued by any agency of the Commonwealth or U.S. Government
- Firearm permit
- Current utility bill
- Current bank statement
- Paycheck
- Government check







## IDENTIFICATION REQUIREMENTS FOR ABSENTEE & MAIL-IN VOTING

Act 18 of 2012 imposed proof of identification requirements for voters applying to vote by absentee ballot. The court's ruling in 2014 did not affect those requirements and they remain in effect. Act 77 of 2019 instituted no excuse mail-in voting and included the same proof of identification requirements for mail-in ballots as for absentee ballots.

***EXCEPTION: Those entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) or by alternative ballot under the Voting Accessibility for the Elderly and Handicapped Act (VAEH) are not required to provide proof of identification.***

A voter applying to vote by absentee or mail-in ballot must provide proof of identification. If the voter has been issued a valid and current driver's license (or PennDOT ID card), the voter must provide the driver's license (or ID card) number.

If a voter does not have a driver's license (or PennDOT ID card), the voter must provide the last four digits of his or her Social Security number.

Only if the voter has ***neither*** a driver's license (or ID card) ***nor*** a Social Security number, then the voter must provide a copy of an ID that shows a NAME, a PHOTO, and an EXPIRATION DATE that is CURRENT. The copy of the photo identification must accompany the application for absentee or mail-in ballot.

Only limited types of photo identification are acceptable for this purpose, such as Photo IDs issued by the U.S. Government or the Commonwealth of Pennsylvania, and must include a valid expiration date (unless otherwise noted below) including:

- U.S. Passport
- U.S. Military ID (active duty and retired military ID may designate an expiration date that is indefinite). Military dependents' ID must contain current expiration date.
- Employee photo identification issued by Federal, Pennsylvania, Pennsylvania County, or Pennsylvania Municipal government.
- Photo identification issued by an accredited Pennsylvania public or private institution of higher learning.
- Photo identification issued by a Pennsylvania care facility, including long-term care facilities, assisted living residences and personal care homes.

A voter who does not include proof of identification with the absentee or mail-in ballot application should still receive a ballot; however, the county board of elections must send a notice to the voter with the ballot requiring the voter to provide proof of identification with the ballot. The voter has six (6) calendar days following the election to provide proof of identification.





## ALL INFORMATION SHOULD REFLECT THE CURRENT LAW FOR IDENTIFICATION

All handouts, signage or other information must reflect current requirements and policy. Specifically, any and all materials relating to the in-person photo identification requirements of Act 18 of 2012 that the Commonwealth Court invalidated (including the "Show It" signs and polling place handouts) must be removed from public display.

Any automated phone messaging or answering services that contain information about voter identification must clearly and accurately reflect the identification requirements for "first-time" in-person voters, absentee, and mail-in voters.

Internal staff training documents/programs that are used for training staff on identification requirements for voters must accurately reflect the current identification requirements for "first-time" in-person voters, absentee, and mail-in voters.

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