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Secretary of War Pete Hegseth Ordered a One-Day Standdown for Service Members To Vote.

Great Idea, but this Should Be Held Earlier in the Year.

**By Captain Samuel F. Wright, JAGC, USN (Ret.)² and
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7.2—Service member or military spouse voting and domicile.

7.4—How a service member or military spouse can vote.

¹ We invite the reader's attention to [Law Center | ROA](#). You will find more than 2,300 "Law Review" articles about the Uniformed Services Employment and Reemployment Rights Act (USERRA), the Servicemembers Civil Relief Act (SCRA), the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), the Uniformed Services Former Spouses' Protection Act (USFSPA), the title 38 chapters that provide for veterans' benefits administered by the Department of Veterans Affairs (VA), and other laws that are especially pertinent to those who serve our country in uniform. You will also find a detailed Subject Index, to facilitate finding articles about specific topics. The Reserve Officers Association, now doing business as the Reserve Organization of America (ROA), initiated this column in 1997. I am the author of more than 90% of the articles, but we are always looking for "other than Sam" articles by other lawyers.

² BA 1973 Northwestern University, JD (law degree) 1976 University of Houston, LLM (advanced law degree) 1980 Georgetown University. I served in the Navy and Navy Reserve as a Judge Advocate General's Corps officer and retired in 2007. I am a life member of ROA. I have dealt with USERRA and the Veterans' Reemployment Rights Act (VRRRA—the 1940 version of the federal reemployment statute) for 44 years. I developed the interest and expertise in this law during the decade (1982-92) that I worked for the United States Department of Labor (DOL) as an attorney. Together with one other DOL attorney (Susan M. Webman), I largely drafted the proposed VRRRA rewrite that President George H.W. Bush presented to Congress, as his proposal, in February 1991. On 10/13/1994, President Bill Clinton signed into law USERRA, Public Law 103-353, 108 Stat. 3162. The version of USERRA that President Clinton signed in 1994 was 85% the same as the Webman-Wright draft. USERRA is codified in title 38 of the United States Code at sections 4301 through 4335 (38 U.S.C. §§ 4301-35). I have also dealt with the VRRRA and USERRA as a judge advocate in the Navy and Navy Reserve, as an attorney for the Department of Defense (DOD) organization called Employer Support of the Guard and Reserve (ESGR), as an attorney for the United States Office of Special Counsel (OSC), as an attorney in private practice, and as the Director of the Service Members Law Center (SMLC), as a full-time employee of ROA, for six years (2009-15). Please see Law Review 15052 (June 2015), concerning the accomplishments of the SMLC. My paid employment with ROA ended 5/31/2015, but I have continued the work of the SMLC as a volunteer. As of 5/1/2026, I have come out of retirement and have affiliated with Maher Legal Services in an "of counsel" role. You can reach me by e-mail at samuel@maherlegalservices.com or by telephone at (708) 468-8155.

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On October 1, 2026 Secretary of War Pete Hegseth directed all the armed forces to conduct a “military voting stand down” during October so service members can cast ballots in the 2026 mid-term elections. The order is to be carried out by October 15 and will continue in even-numbered election years.”⁴ We appreciate the note in the memo giving flexibility to National Guard and Reserve commanders as well. Data on Guard and Reserve voting patterns is scant, with Pentagon surveys focused on active duty servicemembers, but most vote in-person in roughly opposite proportion to those on active duty.

This is a great idea, but we wish that Secretary Hegseth had acted months ago. In 2028, the one-day standdown should be conducted in January, to cover primaries as well as the general election, and the one-day standdown should be repeated in early September, right after Labor Day.

The great majority of United States civilian voters cast their ballots in person on Election Day or during the “early voting” period in the days leading up to Election Day, but most active-duty service members and their accompanying spouses vote by absentee ballot even when they are serving within our country. In fact, the vast majority of active duty military members-71% as of 2024-qualify for absentee voting since they are stationed away from their voting residence. The memo recognizes this reality, with emphasis on Federal Post Card Applications (FPCA) and Voting Assistance Officers (VAO). However, the process to request absentee ballots begins in the summer, and involves more steps than simply completing a ballot-which most active duty servicemembers do

⁴ <https://media.defense.gov/2026/Oct/02/2004010323/-1/-1/1/MILITARY-VOTING-STAND-DOWN.PDF> .

during October.⁵ Some, but not all states have “same-day registration and voting,” should a service member desire to vote in person instead of by mail; go to <https://www.usvotefoundation.org/state-election-dates-and-deadlines>. Choose a state and look in the Voter Registration column. Be warned though; as described later in this article, registering to vote in a state that’s not your “home of record” could bring unexpected tax penalties later. Department of War (DOW) officials should keep these facts in mind when setting the date for the one-day standdown for voting.

Q: I understand that the service member must vote by absentee ballot if he or she is serving on a ship at sea or at an overseas military installation. Why can’t service members vote in person on Election Day when they are serving within the United States?

A: Any United States citizen who is at least 18 years old is eligible to register and vote at the place that is his or her *domicile* (legal residence). The rules for determining the domicile of the active-duty service member or the spouse of an active-duty service member are different from the rules applicable to citizens generally.

We invite the reader’s attention to Law Review 21073 (November 2021), by Second Lieutenant (now Captain) Lauren Walker, USMC, and me (Wright). In that article, we wrote:

When a civilian (a person who is not presently on active duty) moves from State A to State B, he or she immediately loses his or

⁵ Fed. Voting Assistance Program, U.S. Dep’t of Def., Post-Election Voting Survey: Active Duty Military (ADM), Technical Report 2024, at 4 (2025)

her domicile in State A and becomes a domiciliary of State B, unless the absence from State A and presence in State B is for a temporary purpose measured in weeks. As an active-duty service member, Lance Corporal Jones is exempted from the application of this general rule. Jones lived in the house or apartment owned or rented by his parents during his childhood and until June 2019, when he graduated from high school, enlisted in the Marine Corps, and left home to report to boot camp at Parris Island, South Carolina.

Jones' domicile of origin is at the address of that house or apartment. Jones can maintain that domicile of origin for the entire time that he is on active duty, even for a full career of 20 years or more. Jones can maintain that domicile of origin at the address where he was living with his parents when he left to report to boot camp even if his parents have since moved away or passed away. Jones' domicile is the place where he lived and was domiciled just before he entered active duty.

Jones' right to vote is protected by two federal statutes, the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) and the Servicemembers Civil Relief Act (SCRA). The pertinent SCRA provisions are as follows:

§ 4001. Residence for tax purposes •

(a) Residence or domicile

(1) In general. A servicemember shall neither lose nor acquire a residence or domicile for purposes of taxation with respect to the

person, personal property, or income of the servicemember by reason of being absent or present in any tax jurisdiction of the United States solely in compliance with military orders.

(b) Military service compensation.

Compensation of a servicemember for military service shall not be deemed to be income for services performed or from sources within a tax jurisdiction of the United States if the servicemember is not a resident or domiciliary of the jurisdiction in which the servicemember is serving in compliance with military orders....

(d) Personal property.

(1) Relief from personal property taxes. The personal property of a servicemember or the spouse of a servicemember shall not be deemed to be located or present in, or to have a situs for taxation in, the tax jurisdiction in which the servicemember is serving in compliance with military orders. (2) Exception for property within member's domicile or residence. This subsection applies to personal property or its use within any tax jurisdiction other than the servicemember's or the spouse's domicile or residence. (3) Exception for property used in trade or business. This section does not prevent taxation by a tax jurisdiction with respect to personal property used in or arising from a trade or business if it has jurisdiction. (4) Relationship to law of state of domicile. Eligibility for relief from personal property taxes under this subsection is not contingent on whether or not such taxes are paid to the State of domicile. •

(e) Increase of tax liability.

A tax jurisdiction may not use the military compensation of a nonresident servicemember to increase the tax liability imposed

on other income earned by the nonresident servicemember or spouse subject to tax by the jurisdiction.... •

(g) Definitions.

For purposes of this section: (1) Personal property. The term "personal property" means intangible and tangible property (including motor vehicles). (2) Taxation. The term "taxation" includes licenses, fees, or excises imposed with respect to motor vehicles and their use, if the license, fee, or excise is paid by the servicemember in the servicemember's State of domicile or residence. (3) Tax jurisdiction. The term "tax jurisdiction" means a State or a political subdivision of a State.⁶

§ 4025. Guarantee of residency for military personnel and spouses of military personnel •

In general. For the purposes of voting for any Federal office (as defined in section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431)) or a State or local office, a person who is absent from a State in compliance with military or naval orders shall not, solely by reason of that absence-- (1) be deemed to have lost a residence or domicile in that State, without regard to whether or not the person intends to return to that State; (2) be deemed to have acquired a residence or domicile in any other State; or (3) be deemed to have become a resident in or a resident of any other State.⁷

⁶ 50 U.S.C. § 4001.

⁷ 50 U.S.C. § 4025.

Lance Corporal Jones was born and raised in a home in Boston, Massachusetts—a home owned by his parents. If Jones remains on active duty and does not establish a new domicile elsewhere, he is eligible to vote in Massachusetts, either in person or by absentee ballot, and he is eligible to vote for all offices and questions on the ballot, not just federal offices. He will be required to pay State income tax to Massachusetts regardless of where he is serving on active duty, within or outside the United States.

Jones can change his domicile while he is on active duty, but he cannot presently change his domicile to Florida or one of the other eight States that do not have a State income tax because he is currently serving in California. To change his domicile while he is on active duty, Jones must simultaneously have a physical presence in the State to which he wishes to change and the intent to make that State his home. Neither intent alone nor physical presence or absence alone is sufficient to create a new domicile or to destroy an existing domicile.

Most active-duty service members vote by absentee ballot at “home”—the places where they lived before entering active duty. If that “original home” is in one of the nine States that do not have State income taxes, the service member would be well advised to maintain that domicile for the entire time that he or she is on active duty, even a full career of 20 years or more.

An active-duty service member stationed in Alaska (like Elmendorf Air Force Base), or Florida (like Naval Air Station Pensacola), or Texas (like

Fort Hood), or in another State that has no State income tax would probably find it advantageous to register and vote where currently serving, in order to establish his or her domicile in a State without a State income tax. A service member serving in Nebraska (like Offutt Air Force Base), or North Carolina (like Fort Bragg), or Virginia (like Naval Base Norfolk) would be foolish to register and vote where stationed and thereby give up his or her domicile in a no-tax State.

In September 1992, shortly before the 1992 presidential election, *The Army Lawyer* published a law review article by Major Albert Veldhuyzen and me (Wright), about domicile of military personnel for voting and taxation purposes. Shortly after Election Day 1992, I received a telephone call from an Air Force legal assistance attorney at Offutt Air Force Base in Nebraska. A zealous but ill-informed voting assistance officer encouraged several hundred active-duty Air Force service members to register and vote in person in Nebraska. Several hundred service members lost significant amounts of money. By registering and voting in Nebraska, they thereby forfeited their claims to be domiciled in Florida, Texas, or other no-tax States, and they were then required to pay Nebraska state income tax and personal property tax on their vehicles.

How does the active-duty service member or military spouse vote by absentee ballot?

Q: I was only 17 when I left home to report to Navy basic training, and I celebrated my 18th birthday shortly after I graduated from basic training. I have never voted or registered to vote. Am I required to

return home to register to vote in person before I can apply for an absentee ballot?

A: No. Under a federal law called the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), you (as a member of the armed forces on active duty) have the right to use a single Federal Post Card Application (FPCA) as a **simultaneous voter registration application and absentee ballot request**. This is section 20302(a)(4) of title 52 of the United States Code.⁸

Q: How do I obtain a copy of the FPCA form?

A: It is still possible to obtain a copy of the paper form, fill it out with a pen, and mail it to your local election official (LEO) back home. In the third decade of the 21st Century, a much better way to register to vote and request an absentee ballot is through the website of the U.S. Vote Foundation: <https://www.usvotefoundation.org>.⁹ If you have questions about overseas or military voting, visit US Vote's dedicated site: Overseas Vote: <https://www.overseasvotefoundation.org>.

Q: Is the Federal Post Card Application (FPCA) a post card? I am concerned about putting my sensitive personal information, like my permanent home address and my Social Security Number, on a postcard. What gives?

A: The FPCA was originally an actual form on cardstock paper, but that is no longer the case, and your private data is no longer visible in the

⁸ 52 U.S.C. § 20302(a)(4).

⁹ Susan: What is the preferred website address? Please help me with the wording of this section.

mail. The FPCA name is still used, but it is also called the “Registration / Ballot Request Form” because it functions as both, simultaneously, for overseas citizens and military voters. You can easily access and complete the form online, for example, using U.S. Vote Foundation’s service: <https://www.usvotefoundation.org/vote/request-overseas-absentee-ballot>.

For states that allow it, U.S. Vote Foundation facilitates users to sign, print and email the completed form directly to your local election office through their system. This makes the process quick and easy for you. Not printing or posting. See more: <https://www.usvotefoundation.org/photo-sign-email-absentee-ballot-request-online>.

Q: When can I submit my completed FPCA to the LEO?

A: UOCAVA contains the following provision:

A State may not refuse to accept or to process, with respect to any election for Federal office, any otherwise valid voter registration application or absentee ballot application (including the postcard form prescribed under section 20301 of this title) submitted by an absent uniformed services voter during a year on the grounds that the voter submitted the application before the first date on which the State otherwise accepts or processes such applications for that year submitted by absentee voters who are not members of the uniformed services.¹⁰

¹⁰ 52 U.S.C. § 20306.

As a UOCAVA voter, you can apply for your absentee ballot for the general election (in November) at any time after January 1 of that year.

Q: Is it possible for me to use a single FPCA form to apply for an absentee ballot for the primary and also the general election?

For most states, yes. U.S. Vote Foundation has even integrated into their FPCA wizard the option to request ballots for the entire election year. If you choose to, that will be printed on your FPCA form. But state laws can greatly vary. If you are at all concerned, you can look up and email or call your local election official (LEO) to be sure you are on the voting roll and will receive your ballot. To look up your LEO, go to the U.S. Vote Foundation's Election Official Directory at:
<https://www.usvotefoundation.org/election-offices>.

Q: When can I expect the LEO to send me my absentee ballot?

A: As amended in 2009, UOCAVA requires every State to transmit absentee ballots by the 45th day before any primary, general, special, or run-off election for federal office.¹¹ Of course, the LEO cannot send you an absentee ballot until he or she has in hand your completed FPCA.

In 2026, the 45th day before the mid-term election fell on Saturday, 9/19/2026. **It would have been better if the Secretary of War had directed the services to conduct the one-day voting standdown not later than early September, so that the completed FPCAs would arrive at the LEO offices by 9/19/2026.**

¹¹ 52 U.S.C. § 20302(a)(8).

The Federal Write-in Absentee Ballot.

Q: In early 2026, I was serving on active duty at a Navy base in Texas, and I received my absentee ballot for the 2026 primary in time to mark and return the ballot by Election Day. In the fall of 2026, when I need to receive and return my ballot for the general election, I am serving on a Navy ship, and the ship is deployed to the Indian Ocean. It is not possible for a ship at sea to receive and transmit mail every day and mail service to ships is slow and intermittent. If I do not receive my regular absentee ballot in time to mark it and return it to the LEO by Election Day, is there an alternative way for me to vote in the general election?

A: Yes. In this circumstance, you can obtain the Federal Write-in Absentee Ballot (FWAB) and use that ballot to vote for Federal offices (President, United States Senator, and United States Representative). You mark the ballot by writing in the name of your preferred candidates for each Federal office. If you do not know the names, you can vote by expressing a party preference (Republican, Democratic, Green Party, etc.) for each Federal office.

UOCAVA provides as follows concerning the FWAB:

The Presidential designee [the Director of the Federal Voting Assistance Program in the Department of War] shall prescribe a Federal write-in absentee ballot (including a secrecy envelope and a mailing envelope for such ballot) for use in general, special, primary, and runoff elections for Federal office by absent

uniformed services voters and overseas voters *who make timely application for, and do not receive, State absentee ballots.*¹²

UOCAVA further provides:

Each State shall-- ... permit absent uniformed services voters and overseas voters to use Federal write-in absentee ballots (in accordance with section 20303 of this title) in general elections for Federal office.¹³

Q: How do I obtain a copy of the Federal write-in absentee ballot?

A: You can obtain a copy of the FWAB and mark and submit that ballot through the website of U.S. Vote Foundation, just as you obtained the FPCA and submitted your absentee ballot application.

Before you complete and submit the FWAB, we suggest that you first contact your local election official on-line, to determine if your regular absentee ballot has been sent or can be resent. It may be possible for you to print your ballot (including State as well as Federal offices and including the names of the candidates) and mark and submit that ballot. The FWAB is better than nothing, but it is at best an imperfect substitute for your regular ballot.

Q: The Federal Write-in Absentee Ballot is better than nothing, but I really want to vote for State and local offices as well as Federal offices, and it would be great to vote on a ballot that includes the

¹² 52 U.S.C. § 20303(a)(1) (emphasis supplied).

¹³ 52 U.S.C. § 20302(a)(3).

names of the candidates. Let us assume that on 10/19/2026, 15 days before the general election on 11/3/2026, I still have not received my regular absentee ballot, so on that date I mark and submit the Federal write-in absentee ballot. The very next day, 10/20/2026, I receive my regular absentee ballot in the mail. Under these circumstances, am I permitted to mark and return the regular absentee ballot?

A: Yes. If your local election office receives your regular absentee ballot by the State deadline, which is usually Election Day, the election official's responsibility is to count your regular absentee ballot and set aside and not count your Federal write-in absentee ballot. If your regular absentee ballot arrives after the State deadline, the official should count your Federal write-in absentee ballot.

Q: My older brother is on active duty in the Army. In 2024, he did not apply for an absentee ballot, but in early October he completed and submitted the Federal write-in absentee ballot to vote in the general election. Our County Clerk refused to count my brother's Federal write-in absentee ballot. What gives?

A: Under Federal law (UOCAVA), the Federal write-in absentee ballot is only to be used by the military or overseas voter *who has made a timely application for the State absentee ballot but did not receive it on time to vote*. The County Clerk's rejection of your brother's Federal write-in absentee ballot under these circumstances was correct under Federal law.

Suggestions for improvement going forward.

We suggest that in 2028 the Secretary of War should direct the services to conduct the one-day voting standdown in early January, to encourage service members and military spouses to apply at the start of Calendar Year 2028 for both the primary and the general election. A second voting standdown should be conducted in late August or early September, at least 60 days before the 2028 general election.

Q: Where can I find a lawyer or law firm that fully understands laws like the Servicemembers Civil Relief Act (SCRA), the Uniformed Services Employment and Reemployment Rights Act (USERRA), the Uniform Code of Military Justice (UCMJ), and other laws that are especially relevant to individuals who serve our country in uniform?

A: As of 5/1/2026, I have come out of retirement and have joined Maher Legal Services in an “of counsel” role. This firm has a great team, headed by attorneys John Maher and Kevin Mikolashek, both of whom have served as Army judge advocates for many years. These attorneys and this firm have a great record, and I am proud to join their team.

Here is a link to the Maher Legal Services website:

<https://www.lawyersdefendingwarriors.com/about>.

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