



**DEFENSE HUMAN RESOURCES ACTIVITY
FEDERAL VOTING ASSISTANCE PROGRAM**
4800 MARK CENTER DRIVE, SUITE 03J25-02
ALEXANDRIA, VA 22350-4000

March 13, 2017

Michael Haas
Administrator
Wisconsin Elections Commission
212 East Washington Ave., 3rd Floor
Madison, WI 53707-7984

Dear Mr. Haas:

I am writing today with concerns regarding Wisconsin's handling of requests for absentee ballots from overseas American citizens who intend to return to the United States. As you are aware, the Federal Voting Assistance Program (FVAP) is the Department of Defense program charged with administering the federal responsibilities of the *Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA)*, 52 U.S.C. §§ 20301, *et seq.* Our mission is to help ensure Service members, their eligible family members and overseas citizens are aware of their right to vote and have the tools and resources to successfully do so.

Wisconsin's definitions of military and overseas electors exclude certain classes of voters who are entitled to protections under UOCAVA. Under Wisconsin Statute § 6.24(1) an "overseas elector" is partly defined as a U.S. citizen "who does not qualify as a resident of this state under [Wisc. Stat. § 6.10]." The residency standard under Wisconsin Statute § 6.10(1) states that a person who "intends to return" to the State of Wisconsin qualifies as a resident of the State. While this standard may be appropriate to evaluate Wisconsin state residency by these voters, the definitions set forth by *UOCAVA* should be used in determining the scope of protections afforded these Wisconsin voters seeking to vote in Federal elections. *UOCAVA*, under the definition of "overseas voter", makes no distinction between a U.S. citizen residing outside the U.S. who has an intent to return and a U.S. citizen residing outside of the U.S. whose return is uncertain. Specifically, *UOCAVA* defines "overseas voter" to include "a person who resides outside the United States and is qualified to vote in the last place in which the person was domiciled before leaving the United States; or a person who resides outside the United State and (but for such residence) would be qualified to vote in the last place in which the person was domiciled before leaving the United States." 52 U.S.C. § 20310(5)(B)-(C).

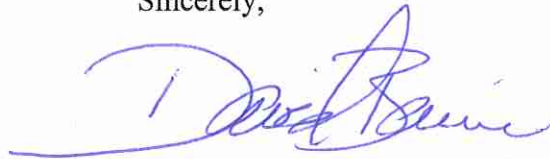
Our understanding is that currently, voters using the Federal Post Card Application (FPCA) who select "I am a U.S. citizen residing outside the United States, and I intend to return" are not considered *UOCAVA* voters under Wisconsin's state election laws and procedures. This excludes such voters from certain *UOCAVA* protections, including the ability to submit a Federal Write-In Absentee Ballot (FWAB) and the option to have their ballot electronically transmitted to them, and also subjects them to additional identification requirements. It is FVAP's position that all voters who fall under the *UOCAVA* definition of "overseas voter," regardless of whether they intend to return to the U.S., should be provided all of the protections to register and vote absentee under *UOCAVA*. This includes, among other protections, the voter's ability to utilize

the FWAB in general elections for federal office as provided under 52 USC § 20302(a)(3) in accordance with 52 USC § 20303, the ability to request and receive their ballots electronically, and the ability to simultaneously register and request an absentee ballot for all federal elections without having to meet additional identification requirements

FVAP stands willing and ready to work with Wisconsin to resolve these concerns so that all *UOCAVA* citizens can register and vote in federal elections as envisioned in *UOCAVA*. Please contact Nate Bacchus, FVAP State Affairs Specialist, at nate.a.bacchus@fvap.gov with any questions, concerns or comments you may have.

Thanks for all you, your staff and colleagues in the Wisconsin Elections Commission do to support and assist our military and overseas voters.

Sincerely,

A handwritten signature in blue ink, appearing to read "David Beirne", with a large, stylized initial "D" at the start.

David Beirne
Director