

Pennsylvania Congressmen File Federal Lawsuit to Protect Military Voters and Prevent Foreign Interference in Elections

Harrisburg, PA – Congressmen Guy Reschenthaler, Dan Meuser, Mike Kelly, GT Thompson and Lloyd Smucker filed a complaint in federal court against Secretary Schmidt and the Pennsylvania Department of State (DOS) alleging violations of federal election laws. The Uniformed and Overseas Citizen Absentee Voting Act ([UOCAVA](#)) of 1986 establishes certain privileges for members of the military, their family members and other overseas US citizens when voting in a federal election. The Help America Vote Act of 2002 ([HAVA](#)) was passed to establish minimum standards for the administration of federal elections including the requirement for verification of identity and eligibility for individuals who seek to vote in a federal election.

Without citing to any statute or legal authority, the Pennsylvania DOS has issued directives to counties not to attempt to verify the identity or eligibility of UOCAVA applicants. The Elections Clause of the US Constitution gives state legislatures the authority to regulate elections subject to Congressional enactments. Both UOCAVA and HAVA are congressional enactments and under the Supremacy Clause, preemption occurs when a state law or practice conflicts with a federal law. **In plain language, the PA DOS does not have the authority to override or disregard federal law.**

Through unlawful guidance, the DOS is instructing election officials to violate UOCAVA and HAVA and risks the dilution of military votes by allowing ineligible individuals to receive and vote an absentee overseas ballot. The media often mislabels UOCAVA ballots as military ballots but the majority of UOCAVA ballots are cast by non-military overseas voters. In 2022, only 35% of UOCAVA ballots were from members of the military and their family members. Some of the privileges afforded to UOCAVA eligible voters include receiving their ballots at least 45 days before the election, receiving a ballot by email, and the use of printable, emergency write-in ballots (FWAB). These privileges, intended to make voting easier also create additional security vulnerabilities. Therefore, it is critical that states comply with the requirement to first verify that applicants are eligible to receive these privileges and to confirm identity to prevent the acceptance of fraudulent ballots. As the US Supreme Court has stated, the right to vote “can be denied by a debasement or dilution of the weight of a citizen's vote just as effectively as by wholly prohibiting the free exercise of the franchise.” ([Reynolds v. Sims](#)) Despite serious concerns regarding foreign interference in our elections, the PA DOS has essentially created a system that permits easy exploitation by bad actors.

Plaintiff-Congressman Guy Reschenthaler, is a U.S. Navy veteran and former Judge Advocate General, who prosecuted terrorists in Iraq. “This case is simple; the Pennsylvania Department of State is unlawfully diluting the rightful ballots of the brave men and women who serve our nation and their family members. Unelected career bureaucrats have no right to ignore federal laws that secure our elections. In the Navy JAG Corps, I made daily trips into the red zone in Baghdad, this is personal to me. I will always stand up for those in uniform who deserve to have their right to a secure election protected.”

The situation is dire. As of September 30, 2024, Pennsylvania counties have transmitted over 25,000 UOCAVA ballots for the 2024 election. Only 3,600 of those ballots were to members of the military and their family members. The vast majority, nearly 85%, of the UOCAVA ballots were transmitted electronically to email addresses of individuals who purported to be US citizens overseas. More than 12,000 were sent to applicants who indicated that they have no intention to return to the US or that their return to the US is uncertain.

On September 27, 2024, the US Department of Justice announced a new indictment related to Iran’s efforts to compromise the 2024 election. That indictment comes just three years after the DOJ [indictment of Iranian nationals](#) that confirmed they had successfully breached the state voter registration system in Alaska which resulted in the unauthorized download of private voter data, including social security numbers and driver’s license numbers for more than 100,000 registrants. The Iranian hackers used that data to create a video demonstrating how they could exploit the vulnerabilities in the UOCAVA voting systems. While it does not

appear that the UOCAVA applications featured in the video were submitted to local election offices, the video reveals Iran's knowledge of the system. The FBI emphasized Iran's ongoing desire to interfere in the 2024 which must elicit increased vigilance of the UOCAVA system they sought to exploit.

UOCAVA 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." However, the DOS has instructed counties not to even attempt to determine if the overseas non-military application are valid and not to require identification prior to voting. Failure to verify information on applications for UOCAVA ballots creates an extraordinary vulnerability and the opportunity for bad actors to submit fraudulent ballots which could dilute the votes of military voters.

"As the father of a purple heart wounded warrior, I want to make sure there is no possibility of diluting the votes of our brave men and women serving, we owe them as much," said Representative GT Thompson.

A critical component of HAVA is that the states are required to verify the accuracy of the identification information provided on applications for voter registration. HAVA also requires states to match the applicant's identification numbers provided against information in official databases prior to voting in a federal election. All members of the military and their eligible family members possess required forms of identification. No persons are even permitted onto a military base without proper, valid, government issued photo ID. Non-military US citizens overseas must possess a passport to travel overseas. Verification of identity and eligibility is not an impediment to voting – it is necessary for secure elections and required by federal law.

Relief Requested

Members of Congress are seeking a declaratory judgment which makes it clear: (1) that Pennsylvania's DOS directives and guidance 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, i.e., to require voter eligibility and identity verification.

Plaintiffs are also seeking a Preliminary Injunction which instructs Pennsylvania's top election officials to provide directions to county election officials on the legally mandated procedures necessary to comply with federal and state law by requiring verification of the identity and eligibility of UOCAVA applicants prior to accepting and counting UOCAVA ballots.

The Election Research Institute is a nonprofit organization dedicated to restoring trust in U.S. elections through research, education, and litigation support; protecting voting rights by identifying and mitigating vulnerabilities in election systems; and advocating for lawful, fair elections and government transparency. Karen DiSalvo is a licensed Pennsylvania attorney, and the Vice President of the Election Research Institute.

Attorney Erick Kaardal, a partner of Mohrman, Kaardal & Erickson, P.A., has been representing people suing the government to improve it for over 30 years. Kaardal has listed 61 examples of election integrity lawfare successes, including 2 U.S. Supreme Court victories, here: www.mklaw.com/wp-content/uploads/sites/1300759/2023/08/Election-Integrity-Successes.pdf Elizabeth Nielsen is a trial attorney with Mohrman, Kaardal & Erickson, P.A.