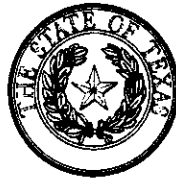


The State of Texas




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John B. Scott
Secretary of State

ELECTION ADVISORY **NO. 2022-03**

TO: County Elections Officers (County Clerks/Elections Administrators/Tax Assessors-Collectors)

FROM: Keith Ingram, Director of Elections 

DATE: January 10, 2022

RE: Procedures for Federal Write-In Absentee Ballots (FWABs) from FPCA Voters and Voters in Hostile Fire Pay and Combat Zones

In preparation for the March 1, 2022 primary, May 24, 2022 primary runoff, November 8, 2022 general election, and other 2022 elections, this memo will focus on procedures for receiving Federal Write-In Absentee Ballots ("FWABs") from Federal Postcard Application ("FPCA") voters and from voters in hostile fire pay or combat zones.

Use of the Federal Write-In Absentee Ballot for General Election

The Federal Write-In Absentee Ballot is the federal form voters may use to vote before an election if they have not received their official ballot. A voter who has submitted his/her FPCA, but has not received the official ballot, may use the FWAB as a write-in ballot to ensure that his/her vote is received.

A FWAB may be used in any election for any office for which balloting materials may be sent through email transmission under Section 101.104 of the Election Code, which includes primary elections. A FWAB may also be used in any election in which there is a federal office on the ballot, a special election to fill a vacancy in the legislature, or any election held jointly with either of those elections. (The voter does not have to ask for their ballot to be emailed to be entitled to use a FWAB; this just defines the category of elections to which the FWAB applies.)

As reminder, this means that the FWAB is not limited to federal offices on the general election ballot, but may include the state and county offices as well. The FWAB may also include the offices in an election held jointly with the general election for state and county offices. Please note that some voters still will not be eligible to receive a full ballot, but rather will be qualified to receive a federal-only ballot. This includes voters voting under Chapter 114 of the Code, who have indicated that they are indefinitely away or have no intention to return to the United States.

In order for a voter to be entitled to use the FWAB, he or she must be a voter who is eligible to use the FPCA (an overseas citizen or a military voter, spouse, or dependent). The voter must also have filed the FPCA with the early voting clerk by the eleventh day before election day. If you have an FPCA on file for a voter and receive a FWAB from the voter before you have mailed or emailed the official ballot, you must continue with normal procedures and mail or email the voter

an official ballot. If the official ballot is returned by the deadline, you will forward the official ballot to the early voting ballot board. If the deadline for receiving military and overseas ballots passes and you have only the voter's FWAB, then forward the FWAB to the early voting ballot board for processing.

Please note that the voter must have submitted the FPCA at the same time as or before submitting the FWAB. If the FWAB is submitted before an FPCA or without an FPCA, it cannot be counted. If a FWAB is filed with you, but you do not have a corresponding FPCA on file for that voter, we suggest that you immediately notify the voter by phone, email, or letter, that his or her FWAB will not be counted and that the voter must submit an FPCA by mail, fax, or as an attachment to an email before another FWAB is filed. You may also wish to explain that the FWAB is a "back up" ballot and that by filing the FPCA, the voter will receive a full ballot from your office and that the FWAB will only be counted if the voter does not return the regular ballot. Also, please note that no marked ballots can be emailed by the voter. Therefore, a FWAB that is sent via email along with an image of an FPCA (which can be emailed), must be rejected.

Here is a link to the FPCA form: [Federal Post Card Application](#). The FWAB is available online through this link: [Federal Write-In Absentee Ballot](#).

Voters in Combat Zones/Hostile Fire Pay Areas

Pursuant to Section 105.001 of the Election Code, military voters stationed in recognized hostile fire or imminent danger pay areas, or areas designated as combat zones by the President of the United States, are authorized to return an early voting ballot by telephonic facsimile transmission (fax). Only military voters on active duty and their spouses or dependents stationed in these areas qualify to submit their voted ballots in this manner. (The ballot may not be returned by email regardless of category.)

Following this memo is a current list of all territories designated as hostile fire or imminent danger pay areas, or combat zones. The State of Texas continues to work with the Federal Voting Assistance Program ("FVAP") to implement this program in Texas. The program operates as follows:

1. A voter in a designated zone receives, by mail or email, a ballot with the voting materials and envelopes from the early voting clerk, per normal procedure. The voter decides if he would like to return his ballot by fax. The voter may also choose to return the ballot by mail.
2. If the voter decides to return the ballot by fax, he may fax the ballot directly to the early voting clerk, along with the FVAP cover sheet located at: [FWAB Fax Cover Sheet](#). Please note that you may accept a faxed ballot directly from the voter.
3. The voter may fax the ballot to FVAP, which will then fax the following items to the Texas early voting clerk: (1) the faxed voted ballot; (2) the faxed cover sheet signed by the voter; and (3) the faxed cover sheet initiated by FVAP.
4. When the early voting clerk receives these materials, the faxed voted ballot is folded, placed in a ballot envelope and sealed. The ballot envelope, along with both faxed cover sheets and application to vote by mail or FPCA, is placed in the jacket envelope.
5. The early voting clerk must keep a record of the names of the voters whose ballots were received by fax. Before the early voting clerk forwards the faxed ballot to the early voting ballot board, he or she must be certain that: (1) no more than one faxed ballot has been received for the voter; and (2) the voter did not return the original ballot by mail.
 - o If you have received more than one ballot, returned by fax and forwarded to you by FVAP, from the voter, then the first one received should be forwarded to the ballot board.

- If you have received both the original ballot from the voter, and also a ballot returned by fax and forwarded by FVAP, the first one received should be forwarded to the ballot board.
 - Any subsequent ballots received from the same voter are considered not timely returned, and are not forwarded to the ballot board, but are retained by the early voting clerk.
6. The jacket envelopes containing faxed ballots are delivered to the early voting ballot board along with the other early voting by mail ballots and are processed in the same manner as other ballots. However, since there will be no carrier envelopes for these ballots, the voter's signature on the fax cover sheet is compared with the voter's signature on the application for ballot by mail or FPCA.

Faxed Ballot Return Deadline/Other Procedures

- Faxed ballots must be received by the close of polls on election day in order to be counted. If a faxed ballot appears to have reached the FVAP office before 7:00 p.m. on election day, but did not reach **your** office by 7:00 p.m., the ballot is considered late. Faxed ballots received in accordance with Chapter 105 of the Election Code are not eligible to be counted late under Section 86.007 of the Code. **Late counting applies only to ballots returned by mail from outside the United States.**
- In order to be faxed, ballots must fit on an 8 ½" by 11" sheet of paper. Therefore, if the ballot is larger than 8 ½" by 11", you may receive **several** faxed sheets associated with one ballot.
- The early voting ballot board will count the faxed ballots in the regular manner. For counties using electronic voting equipment, the ballots are delivered to the central counting station with the other electronic ballots. The central counting station manager will determine whether to hand-count or duplicate the faxed ballots.

The Secretary of State will provide FVAP with the number to your office fax. You will not be responsible for keeping your fax number up-to-date with FVAP. **It is most important that you let our office know if you change your fax number so we can forward the change to FVAP.** You may wish to review your county's contact information in the Texas portion of the online voter's guide at FVAP Guide.

As previously noted, voters in designated hostile fire or imminent danger pay areas and combat zones may choose to fax their ballot directly to the county. However, these voters may instead choose to fax the ballot to FVAP, which will then forward the ballot to the county. The fax numbers that qualified military voters use to fax their ballot to FVAP are: (703) 693-5527; DSN 223-5527; or toll-free, 800-368-8683 (from US, Canada, Guam, Puerto Rico, Virgin Islands). If you (or your voters) have problems with any of these numbers, you may check for updated numbers at FVAP Texas Guide.

If you have any questions about any of the procedures addressed above, please contact the Elections Division toll-free at 1-800-252-2216.

KI:CA:MB

Designated Hostile Fire or Imminent Danger Pay Areas (as of April 2021)

https://comptroller.defense.gov/Portals/45/documents/fmr/Volume_07a.pdf

Location	Qualifying Area
Afghanistan	land and airspace
Algeria	land

Azerbaijan	land
Burundi	land
Cameroon (Far North and North)	land
Chad	land
Colombia	land
Congo, Democratic Republic of (formerly Zaire)	land
Cuba/Guantanamo Bay Detention Facilities	land
Djibouti	land
Egypt	land
Ethiopia	land
Iran	land
Iraq	land and airspace
Israel	land
Jordan	land
Kenya	land
Kosovo	land and airspace
Lebanon	land
Libya	land and airspace
Malaysia (Sabah)	land
Mali	land
Mediterranean Sea (Water area of the Mediterranean Sea extending from the North African Coast northward into Mediterranean Sea, bounded on the east at 26° 00' E longitude, extending north to 34° 35' N latitude, extending west to the East Coast of Tunisia.)	sea
Niger	land
Pakistan	land
Philippines	land
Saudi Arabia	land
Somalia	land and airspace
Somalia Basin (Water area of the Somalia Basin with coordinates: 11°10'N-51°15'E; 06°00'N-48°30'E; 05°00'N-50°30'E; 11°30'N-53°34'E; 05°00'N-50°30'E; 01°00'N-47°00'E; 03°00'S-43°00'E; 01°00'S-41°00'E; and 06°00'N-48°30'E)	sea
South Sudan	land and airspace
Sudan	land and airspace
Syria	land and airspace
Tunisia	land and airspace
Turkey (Land area, excluding the Turkish Straits (i.e., the Dardanelles, the Sea of Marmara, and the Bosphorus Straits) and including the limited airspace south of 37-45N and east of 43-00E) (excluding geographic area encompassing 40-mile radius from center of Izmir, Turkey)	land
Uganda	land
Yemen	land