



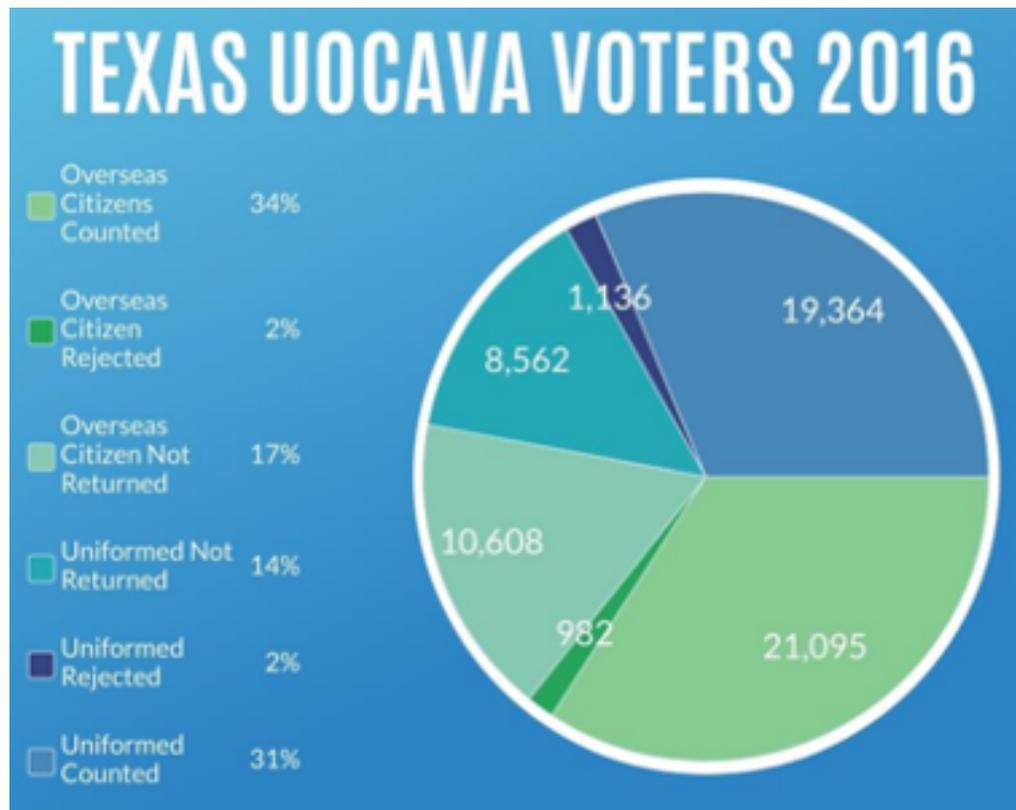
Texans Voting from Abroad

*Solutions for improving the voting
rights of Texans living abroad*

March 2021

TX Voters Abroad - Who we are

- Active service members, veterans and their families
- Texans living abroad
- US citizens born abroad, who have never resided in Texas
- Dual citizens (ex. children born in Texas to foreign nationals)
- In 2016, Texas had the 4th highest number of UOCAVA voters in the US



TX Voters Abroad - How we vote

- **Federal Laws - UOCAVA and MOVE Act**
 - Uniformed and Overseas Citizens Absentee Voting Act
 - Military and Overseas Voter Empowerment Act
 - Electronic means of expedited communication
 - Federal Post Card Request (FPCA) to register/request ballot each calendar year
 - Guarantees Federal ballot 45 days before election
 - Electronic delivery of ballot by request
- **Texas State Requirements**
 - Postal Mail Return of Ballots
 - Eligibility based on residency
- **County Administration**
 - Instructions to voters
 - Point of contact

What are our concerns and the unique barriers to voting for Texans abroad?

- **UOCAVA Administration - Impediments in Texas**
 - Lack of consistency with county administration
 - Obstacles to voting: Citizens denied their right to vote due to administrative hurdles
 - Unreliable electronic communication
- **Postal Ballot Return Complications**
 - Postal delays are the main reason ballots are not counted
 - Potential high cost of return
- **Prejudicial treatment of certain citizens due to residency status**
 - 'Never Resided Status' denies the right to vote
 - 'Return Uncertain Status' disqualifies from State and Local elections

UOCAVA Administration - Voter Testimony

Many Texas voters struggled to vote or were unable to vote due to administrative problems.

Tamia Diane Bouchard, Age 19, Bell County

- Submitted FPCA in February 2020 via email
- Received a rejection letter from the County Clerk by POSTAL MAIL after the deadline had passed
- Tamia tried to fix the problem (missing address) but was unable to cure her FPCA
- Simple administrative errors prevented an enthusiastic first time voter from casting her ballot
- *Written Voter Statement*

Insert Video Here

UOCAVA Administration - Lack of consistency

The lack of consistency amongst the different counties creates confusion for voters.

- Information given to voters is not always accurate
 - *See Statement from Omar Garcia Urdiales, Williamson County Voter*
- Instructions for printing, filling out, and returning ballots differ from county to county
 - Paper sizing of ballots and security envelopes is often not compatible with A4 paper
 - Frustration and confusion with instructions can become a hurdle to voting
- Rules are not always applied in the same way in different counties
 - Some FPCAs were rejected for not having a 'wet signature' because a voter had uploaded their signature using an electronic platform instead of directly signing the FPCA
 - *See statement from Petra Esparza McAlpine, Bexar County Voter*
 - Not all counties sent ballots 45 days in advance of election, violating the MOVE Act

UOCAVA Administration - Lack of Consistency

Solutions: Increase consistency of voting administration across the counties.

- Educate County Clerks about UOCAVA laws and voters
 - Create a position in the SoS's office to coordinate UOCAVA administration
 - Train County Clerks, provide guidance materials, hold Q&A sessions
- Require the SoS Office to provide one simplified version of voting instructions for printing, filling out, and returning ballots that can be used by UOCAVA voters in all counties
 - Ensure paper sizing for ballot and security envelope is compatible with A4 paper
- Require consistent application of rules
 - Eliminate rejections for 'wet signatures'
 - Implement UOCAVA requirement that ballots be sent 45 days in advance of election

UOCAVA Administration - Obstacles to voting

Requesting and receiving ballots can be a frustrating process for UOCAVA voters.

- FPCA rejections
 - Sometimes notified by postal mail or not at all (violating UOVACA law)
 - Voters were unable to cure for deficiencies in some cases
 - Caused voters to miss the registration and/or ballot request deadline
 - See [Statement](#) from Alishia Jackson, Dallas County Voter
 - Typographical or immaterial errors can lead to citizens being unable to vote
- Early deadlines mean that fewer citizens can vote
 - Punishes voters for administrative errors
 - Not all counties sent ballots out 45 days in advance of November election

UOCAVA Administration - Obstacles to Voting

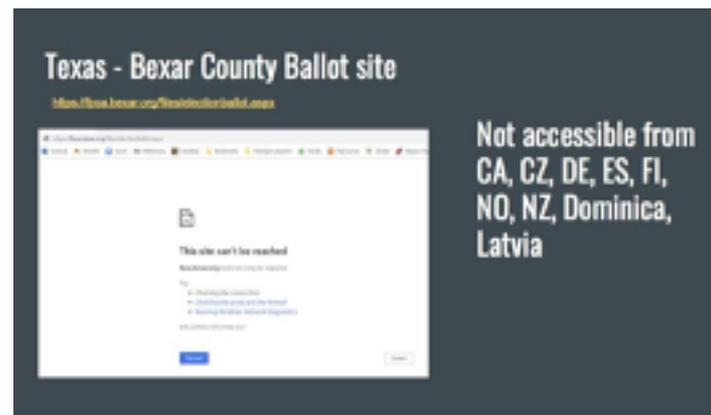
Solutions: Ensure that overseas citizens are not denied their right to vote due to administrative obstacles.

- Permit FPCAs to be cured for deficiencies regardless of the original receipt date
 - Voters should be notified of FPCA rejections via email
 - Use Arizona Elections Procedure Manual as an example
 - Received date is used to meet deadline
 - Voter put in 'suspense status' and able to cure up to Election Day
 - Clerk must use 'reasonable efforts' to acquire missing information within 10 business days
- Extend deadlines so the voters can register/submit their FPCA up until the election

UOCAVA Administration - Electronic Communication

Overseas voters rely on electronic communication with their County Clerk.

- In 2020, numerous Texas counties used IP blockers, as a result some voters from abroad could not:
 - access election information
 - submit their FPCAs
 - confirm their registration
 - directly violates UOCAVA law which requires at least ONE means of electronic communication*
- No published point of contact for UOCAVA voters
- No way to check FPCA status without contacting County Clerk's office (FPCA Ballot Tracker only has ballot info)



Further Examples of Geoblocking in Texas

**Pursuant to 52 USC §20302(e)(1), the State of Texas is required to " designate not less than 1 means of electronic communication— for use by absent uniformed services voters and overseas voters who wish to register to vote or vote in any jurisdiction in the State to request voter registration applications and absentee ballot applications under subsection"*

UOCAVA Administration - Electronic Communication

Voter Testimony

- 80 year old Brazos County voter Jeanelle LaMotte was unable to submit her FPCA via email from Germany.
- See [Statement](#) from *Jeanelle LaMotte*

Von: Mail Delivery System <MAILER-DAEMON@mailout11.t-online.de>
Datum: 18. Oktober 2020 um 21:35:15 MESZ
An: jam1707@t-online.de
Betreff: Undelivered Mail Returned to Sender

This is the mail system at host mailout11.t-online.de.

I'm sorry to have to inform you that your message could not be delivered to one or more recipients. It's attached below.

For further assistance, please send mail to postmaster.

If you do so, please include this problem report. You can delete your own text from the attached returned message.

The mail system

<kocon@brazoscountytexas.gov>: conversation with coast.brazoscountytexas.gov [86.97.166.50] timed out while receiving the initial server greeting

Return-Path: Received: from fwd21.aui.t-online.de [fwd21.aui.t-online.de (172.20.27.66)] by mailout11.t-online.de (Postfix) with SMTP id E1A (CEST) Received: from spica38.aui.t-online.de (bVh7oTZHhXq5VJKrqBnof1xKUrYw9SO4v8EV-n2+qpx8XmU9asKWgioWNP6C5wbT@[171kSIXG-1PyY7s0; Wed, 14 Oct 2020 20:30:02 +0200 Received: from 80.145.86.127-48592 by cmoweb07.aui.t-online.de with HTTP/1.1 (User-Agent: Mozilla/5.0 (X11; Linux i686; rv:1.9.2.13) Gecko/20100303 Firefox/3.6.13) Received: from 172.20.102.120-15270 by spica38.aui.t-online.de:8080; Wed, 14 Oct 2020 20:30:02 +0200 (CEST) Date: Wed, 14 Oct 2020 20:30:02 +0200 From: "jam1707@t-online.de" Sender: "jam1707@t-online.de" Reply-To: "jam1707@t-online.de" To: "kocon@brazoscountytexas.gov" Message-ID: <5f6805e0f3b2ee844e854ec13e7260cc2276113d@spica.telekom.de> Subject: FPCA + Cover MIME-Version: 1.0 Content-Type: multipart/mixed

UOCAVA Administration - Electronic Communication

Solutions: Provide a reliable means of electronic communication for all voters.

- Prohibit Geoblocking for all counties
- Require that each county publish and attend to a UOCAVA email address and telephone number on their website for easy access
- Provide voters with a means of checking their FPCA status without contacting their County Clerk
 - Ideally, create a voter portal similar to Georgia's so a voter can check if the FPCA has been accepted
 - If that is not possible, program the current website to show FPCA status
 - FPCA Ballot Tracker could be adapted to include FPCA status

The screenshot shows the Texas Secretary of State's website, featuring the star logo and the name Ruth R. Hughs. The page is titled "FPCA Ballot Tracker" and contains the following text:

The federal Military and Overseas Voters Empowerment Act ("MOVE") created new mandates that impact upcoming elections in Texas. One of the mandates required the State to provide FPCA voters a method to track the status of their ballot. The Office of the Secretary of State has created and supports the "FPCA Ballot Tracker" website. The website is populated with the ballot status information supplied by the local counties and should reflect the most recent status of a Military and/or Overseas Voters ballot.

To look up your ballot status, please complete the required fields below, selecting your county of registration from the dropdown and click on the "Find" button. If your FPCA registration is found, the screen will refresh with the most recent ballot status reported by the county for upcoming elections in Texas. If you are unable to locate your registration or if you have questions regarding your ballot status, please contact your local County Clerk's Office. The attached link provides a list of contact information for all Texas County Clerks. www.sos.state.tx.us/elections/your-county.shtml

No voter with last name [redacted] and date of birth [redacted] residing in [redacted] COUNTY with designation of FPCA was found. Please check information provided and try again, or contact your local election official for information.

Please provide the following and click Find

Your last name: [input field] Suffix: [dropdown menu]

Your date of birth: [input field]

Your county of residency: [dropdown menu]

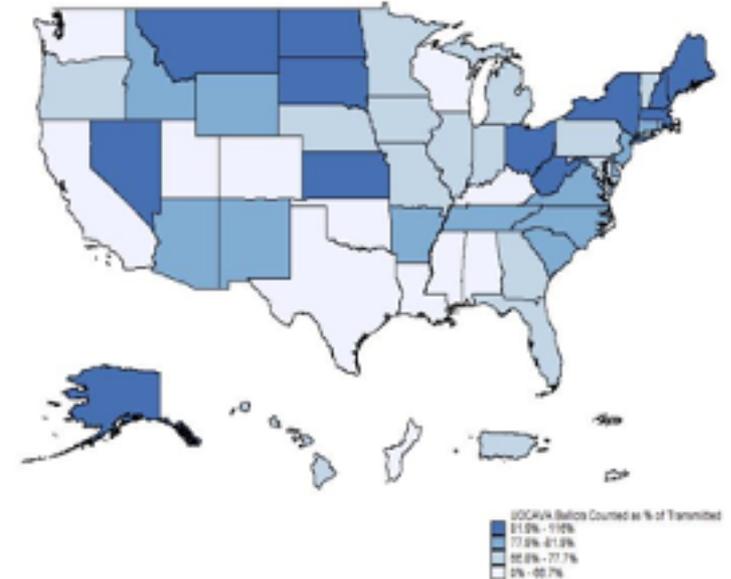
[Find]

Postal Ballot Return Complications - Postal Delays

Texas requires UOCAVA voters to return a hard copy ballot by postal mail.

- Mail from abroad is often delayed
 - Late ballot arrival was the #1 reason for ballots to be rejected in 2018*
 - Fewer than ⅓ of transmitted Texas UOCAVA ballots were counted in 2016*
 - In July 2020, 162 countries had no or disrupted U.S. mail service
- Any administrative irregularities on the part of the county could make postal return impossible
- *See Video and Statement from Amerika Garcia*

Figure 5. Percentage of Ballots Transmitted to UOCAVA Voters That Were Counted, 2016



* *Elections Administration and Voter Survey, 2018 Comprehensive Report, p 98; 2016 p. 124*

Postal Ballot Return Complications - High Costs

Regular mail options also prevent challenges for voters.

- Courier services place an excessive tax on voting from abroad
 - Costs range from \$20 to \$100+ depending upon location
 - Disenfranchises many voters
- Embassy consular pouches
 - Most require personal drop-off
 - Access is unavailable to those who do not live near their embassy
 - Mail can take weeks to arrive in the US (ballots travel by non-priority pouch)
- Military in hostile fire zones required to use FVAP fax service as only postal mail alternative
 - Can experience delays
 - Not reliable shortly before the election

Postal Ballot Return Complications

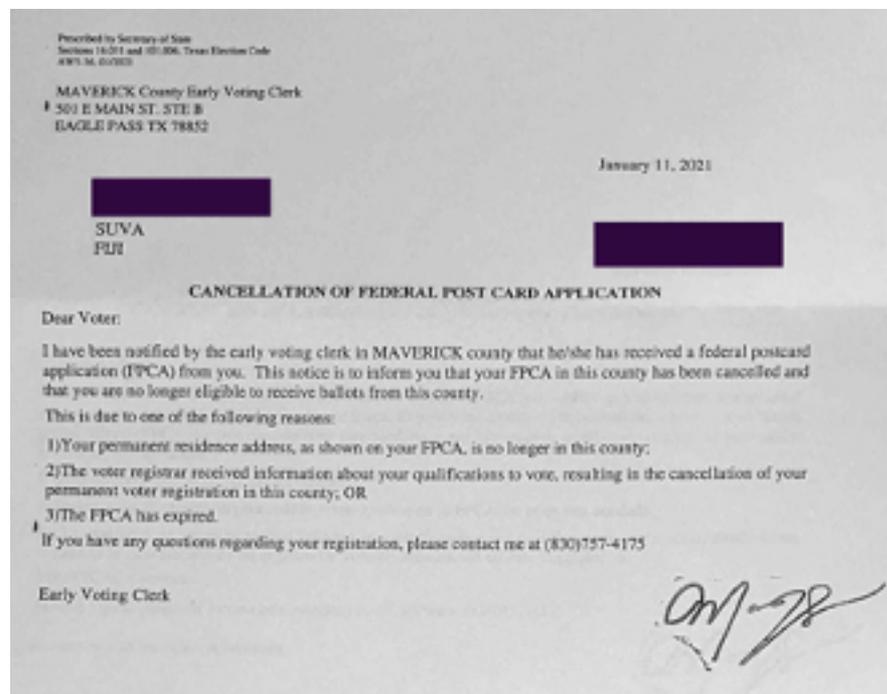
Solutions: Alleviate the difficulties of postal ballot return.

- **To ensure ALL voters can return their ballots without undue delay or cost:**
 - Accept the electronic return of ballots, preferably by email
 - Extend ballot receipt deadline to 10 days past election
- **If this is not possible, accept email return for voters:**
 - In hostile fire zones
 - In countries with suspended international mail service 45 days before the election
 - In countries with suspended consular pouch service within 45 days before the election
 - Who do not receive their ballot 45 days before the election
- **At the very least, allow military in hostile fires zones to use ANY fax service.**

Prejudicial Treatment due to Residency Status

Some US citizens are given prejudicial treatment due to their residency status.

- Federal law provides US citizens the right to vote but Texas does not recognize the voting rights of US Citizens born overseas who have not lived in the United States
 - 'Never Resided Status'
 - *See statement from*
- 'Return Uncertain Status' disqualifies from State and Local election
 - Causes removal from voter rolls after FPCA expires (each calendar year)
 - Ex. letter from Maverick County



Prejudicial Treatment due to Residency Status

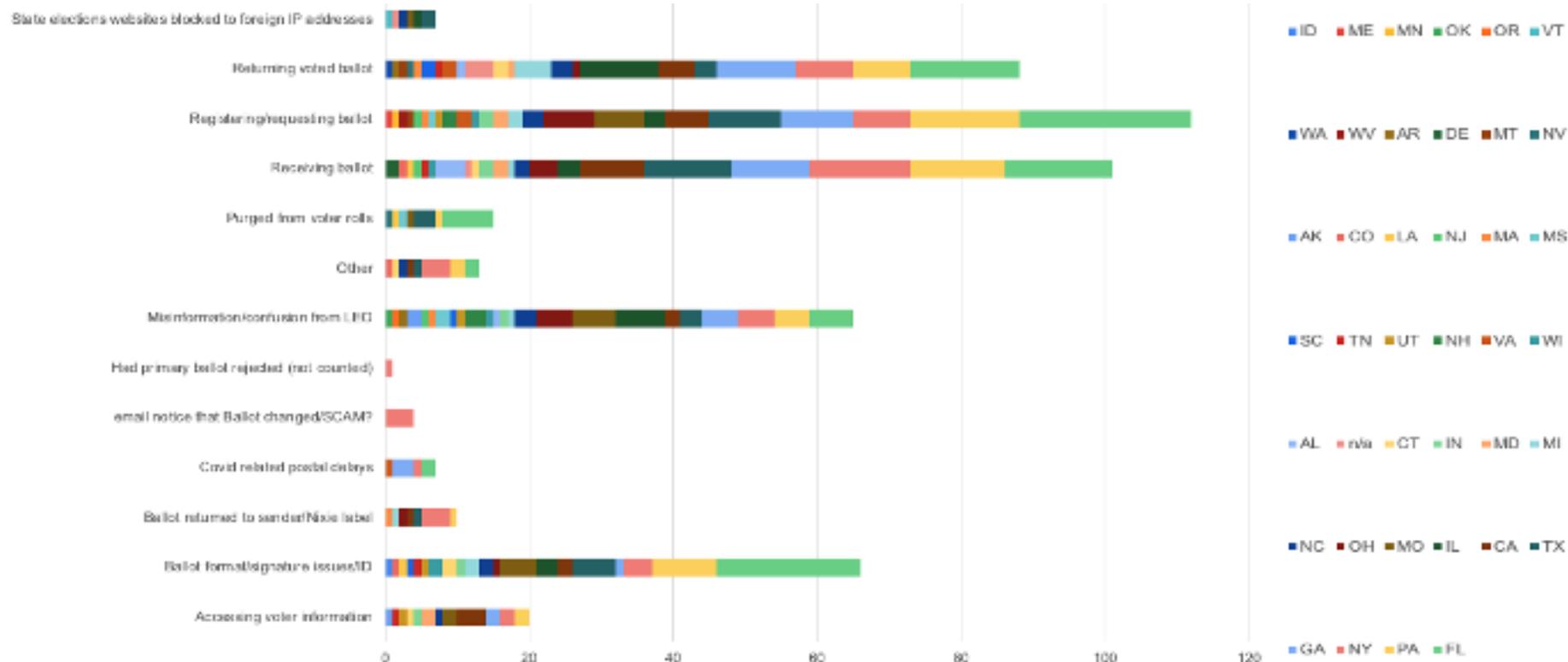
Solutions: Secure the right to vote for ALL US citizens that ALL elections.

- Grant US citizens who never resided in Texas their federally-protected right to vote.
- Grant equal voting rights to citizens whose return to Texas is uncertain, enabling them to vote in local and state elections
- Retain valid registration of all voters from abroad in the same way that voters presently residing in Texas are retained

Our Suggested Solutions, summarized

- ★ **Increase consistency of voting administration across the counties.**
 - Educate County Clerks about UOCAVA and create consistent documentation.
- ★ **Ensure that overseas citizens are not denied their right to vote due to administrative obstacles.**
 - Lengthen ballot deadlines and improve ballot request process
- ★ **Provide a reliable means of electronic communication for all voters.**
 - Guarantee secure email or online upload for ballots and other voting materials and online access to voting information, including FPCA status.
- ★ **Alleviate the difficulties of postal ballot return.**
 - Ensure ALL voters can return their ballots without undue delay or cost
- ★ **Secure the right to vote for ALL US citizens that ALL elections.**
 - Grant equal voting rights to US citizens, regardless of status

Texas Voter Abroad issues by type (Nov 20 survey, 9895 respondents)



Voter Protection Resources links

Link to UOCAVA and MOVE text

<https://www.fvap.gov/info/laws/uocava>

Federal Voter Assistance Program (FVAP) faqs

<https://www.fvap.gov/guide/appendix/faq>

Google doc with Voting from Abroad FAQs:

https://docs.google.com/document/d/1fFkuobwscWVkoBgVzte4rEOQs4Xsdi0WrK_LLLw7Svg/edit?usp=sharing

Useful case reference

SCt case re: federal form preempting state forms for voter documentation requirements: Arizona v. Inter Tribal Council of Arizona, Inc. 570 U.S. 1 (2013)