



PRESS RELEASE



Fact Sheet: Move Act



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For Immediate Release

Office of Public Affairs

About the MOVE Act

Enacted in 1986, the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) protects the right of service members to vote in federal elections regardless of where they are stationed. This law requires that states and territories allow members of the U.S. Uniformed Services and merchant marine, their family members and U.S. citizens residing outside the United States to register and vote absentee in elections for federal offices.

UOCAVA was expanded significantly in 2009, when Congress passed the Military and Overseas Voter Empowerment (MOVE) Act to provide greater protections for service members, their families and other overseas citizens. Among other provisions, the MOVE Act requires states to transmit validly-requested absentee ballots to UOCAVA voters no later than 45 days before a federal election, when the request has been received by that date, except where the state has been granted an undue hardship waiver approved by the Department of Defense for that election.

The Department of Defense determines whether to grant waivers to states that are unable to comply with the MOVE Act requirement to mail ballots by the 45th day before a federal election. This year, 12 states applied for waivers.

- Denied Waivers: Alaska, Colorado, the District of Columbia, Hawaii, the U.S. Virgin Islands and Wisconsin.
- Approved Waivers: Delaware, Massachusetts, New York, Rhode Island and Washington.
- Withdrawn Waiver Request: Maryland.

DOJ Enforcement of the MOVE Act

In the past several months, the department has worked to aggressively enforce UOCAVA and the MOVE Act in order to ensure that all military and overseas voters can exercise their right to vote, and have their votes counted, in the upcoming federal election on Nov. 2, 2010. The department has devoted significant resources to ensuring successful implementation of the MOVE Act including forming a team of attorneys to monitor state compliance with the Act's requirements.

MOVE Act Lawsuits:

The department has filed five lawsuits against states (Wisconsin, Guam, New York, New Mexico and Illinois) to date to compel compliance with the law.

- On Sept. 10, 2010, the department filed a lawsuit against Wisconsin. This lawsuit was resolved by a consent decree and signed by the court on Sept. 15, 2010. The agreement provides additional time, until Nov. 19, 2010, for receipt of absentee ballots to ensure eligible military and overseas voters have sufficient time to cast and return their votes and to have them counted. The agreement also required Wisconsin officials to take certain steps to ensure that all local election offices in the state sent absentee ballots to military and overseas voters by no later than Oct. 1, 2010. Under the agreement, Wisconsin will provide a 49-day window for military and overseas voters to receive, mark and submit their ballots to ensure sufficient time to have their ballots counted.
- On Oct. 6, 2010, the department filed a lawsuit against Guam seeking emergency relief to help ensure that uniformed service voters and other overseas citizens have the opportunity to participate in the upcoming federal elections. This lawsuit was filed because Guam failed to mail ballots to affected voters by the Sept. 18, 2010, deadline. On Oct. 13, 2010, the federal district court in Guam held a hearing and granted the department's request for permanent injunctive relief.
- On Oct. 12, 2010, the department filed a lawsuit against New York. New York received a waiver to allow it to send ballots by Oct. 1, 2010, but more than 43,000 New York ballots were not sent by this deadline. The lawsuit was resolved by a consent decree, signed by the court on Oct. 19, 2010. The decree provides additional time, until Nov. 24, 2010, for receipt of absentee ballots to ensure eligible military and overseas voters have sufficient time to cast and return their votes and to have them counted.
- On Oct. 12, 2010, the department filed a lawsuit against New Mexico. This lawsuit was resolved by a consent decree that provides additional time for overseas voters whose ballots were mailed late to return those ballots and have them counted. Election officials in six counties (Curry, Los Alamos, McKinley, Rio Arriba, Sandoval and Taos) mailed ballots up to four days late; the settlement agreement provides that ballots sent by Election Day and received up to Nov. 6, 2010, four days after Election Day, will be counted. The district court approved the consent decree and entered it as an order of the court on Oct. 14, 2010.
- On Oct. 22, 2010, the department filed a lawsuit against Illinois, accompanied by a consent decree that the court signed that same day. The settlement provides additional time beyond the state's existing Nov. 16, 2010, deadline – 14 days after Election Day – for receipt of ballots from military and overseas voters in six counties: Boone, Hancock, Jersey, Massac, Schuyler and St. Clair. The settlement would also extend the date by which ballots from those counties must be postmarked from Nov. 1 to Nov. 2, 2010. In addition, the settlement requires that any voters who asked to receive their ballots electronically, but were sent the ballot by mail instead, be transmitted a ballot by the requested electronic method.

MOVE Act Agreements:

The department has reached out-of-court agreements with nine other jurisdictions (Alaska, Colorado, DC, Hawaii, Kansas, Mississippi, Nevada, North Dakota and Virgin Islands) to ensure timely receipt of ballots by overseas and

military voters. These agreements generally require relief such as mailing out the ballots by the 45th day, an extension of time to count ballots that are received after election day where the ballots were mailed later than the 45th day; express delivery of ballots that were not sent by the 45th day; and notice to affected voters.

- On Sept. 2, 2010, the department reached an agreement with the U.S. Virgin Islands, which committed to sending absentee ballots for federal office (the Virgin Islands' Delegate to Congress) on or before Sept. 18, 2010, the 45th day before the election.
- On Sept. 15, 2010, the department announced its agreement with Alaska, which expedited the candidate certification procedures for its Aug. 24, 2010, primary election so that it was able to send out an official absentee ballot to all UOCAVA voters no later than Sept. 18, 2010. This date for sending the official ballot is 45 days in advance of the federal general election, thus ensuring that eligible military and overseas voters have sufficient time to receive, cast and return their ballots and to have their votes counted.
- On Sept. 16, 2010, the department reached an agreement with Hawaii. Hawaii's primary election on Sept. 18, 2010, precluded the state from sending absentee ballots to military and overseas voters by the MOVE Act's ballot transmittal deadline of Sept. 18, 2010 – the 45th day before the Nov. 2, 2010, federal general election. To ensure that the state's military and overseas voters have sufficient time to receive, cast and return their ballots in time for them to be counted in the Nov. 2, 2010, election, the department and the state reached an agreement requiring Hawaii to send out ballots by express delivery service no later than Sept. 24, 2010, and to provide voters with the means to return their completed ballots by express delivery free of charge. Earlier this year, Hawaii enacted legislation, effective on Jan. 1, 2011, which moves Hawaii's primary date to the second Saturday in August in every even-numbered year to help ensure compliance with UOCAVA's 45-day advance ballot mailing requirement in future federal general elections.
- On Sept. 17, 2010, the department announced its agreement with Colorado, which required the state to ensure that its counties sent an official absentee ballot to UOCAVA voters no later than Sept. 18, 2010, thus ensuring that eligible military and overseas voters have at least 45 days to receive, cast and return their ballots in time for them to be counted in the Nov. 2, 2010, election.
- On Sept. 17, 2010, the department reached an agreement with the District of Columbia, under which the District sent absentee ballots to military and overseas voters no later than Oct. 4, 2010, and will provide additional time -- until Nov. 19, 2010 -- for receipt of absentee ballots. The District passed emergency rules embodying these new deadlines, which will ensure that eligible military and overseas voters have at least 45 days to receive, cast and return their ballots in time for them to be counted in the Nov. 2, 2010, election. Earlier this year, the Council of the District of Columbia adopted a "Sense of the Council Primary Election Timing Resolution of 2010" acknowledging that the District needed to enact legislation to move its primary election for federal offices to a date no later than the first Tuesday of the first full week of August, beginning in 2012.
- On Oct. 8, 2010, the department announced that it reached an agreement with Nevada. Following inquiries from the department, Nevada reported that due to a ballot printing delay, one of its counties, Elko County, did not send absentee ballots by the 45th day before the general election to its UOCAVA voters who had requested ballots by that date. To address this MOVE Act violation and permit these voters to have a 45-day period to receive, mark and return their ballots, the Nevada Secretary of State adopted an emergency regulation to provide an additional six days, until 5:00 P.M. PDT on Nov. 8, 2010, for Elko County's UOCAVA voters to return their ballots, provided they are executed and sent by Election Day.
- On Oct. 8, 2010, the department reached an agreement with North Dakota to remedy the state's MOVE Act violations. Following inquiries from the department, North Dakota state officials informed the Department that 13 counties sent ballots by up to six days after the Sept. 18 deadline: Benson, Bottineau, Burleigh, Cass, Cavalier, Dickey, Grand Forks, Mercer, Mountrail, Pembina, Ransom, Traill and Walsh. To remedy this violation, North Dakota has required canvassing boards in the affected counties to meet to canvass the election results six days after the election, to provide sufficient time for late-mailed ballots to be received, executed and returned.
- On Oct. 15, 2010, the department announced its agreement with Kansas. Following inquiries from the department, Kansas state officials reported that seven of its counties failed to send ballots by the Sept. 18, 2010, deadline: Marshall, Finney, Jackson, Hamilton, Wabaunsee, Ellis and Stevens Counties. Under the agreement, the state will take actions to ensure that counties provide at least 45 days for the transmission,

execution and return of ballots to all qualified UOCAVA voters who requested absentee ballots on or before Sept. 18, 2010, and will extend the receipt deadlines in those counties as commensurate with the delay in each of those counties in sending ballots.

- On Oct. 15, 2010, the department announced its agreement with Mississippi. Following inquiries from the department, Mississippi state officials reported that the ballots for UOCAVA voters from 22 counties who had requested ballots on or before Sept. 18, 2010, were not sent at least 45 days before the federal general election: Adams, Alcorn, Attala, Clay, Coahoma, Covington, Forrest, Hinds, Jasper, Jones, Lafayette, Lamar, Montgomery, Neshoba, Perry, Pontotoc, Tishomingo, Union, Warren, Washington, Webster and Yazoo. Under the agreement, Mississippi will extend the deadline for the receipt of ballots from military and overseas voters – ballots from eligible voters who requested ballots by Sept. 18, 2010, that are executed and sent by Nov. 2, 2010, and received by 7:00 p.m. on Nov. 8, 2010, will be counted.

The Department of Justice is firmly committed to ensuring that our men and women serving overseas have the opportunity to vote and to have that vote counted. The department is prepared to file suit against states that violate the MOVE Act when necessary to achieve compliance. More information about UOCAVA and other federal voting laws is available on the Department of Justice website at www.justice.gov/crt/voting/misc/activ_uoc.php. Complaints may be reported to the Voting Section of the Justice Department’s Civil Rights Division at 1-800-253-3931.

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Component

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