



FEDERAL WRITE-IN ABSENTEE AND STATE WRITE-IN VOTE-BY-MAIL BALLOTS

DE Reference Guide 0002 (Updated 07/2016)

These guidelines are for reference only. They are not to be construed as legal advice or representation. For any particular set of facts or circumstances, refer to the applicable state, federal law, and case law, and/or consult a private attorney before drawing any legal conclusions or relying upon this information.

FEDERAL WRITE-IN ABSENTEE BALLOT (FWAB) (“back-up/emergency” ballot)

(UOCAVA, 42 U.S.C 1973ff; sections 101.6952 and 101.697, F.S.; Rule 1S-2.030, and Rule 1S-2.051, F.A.C.)

- **Used ONLY by UOCAVA voters:**
 - Absentee military members and their family members (*i.e.*, uniformed services members on active duty away from place of residence – includes ‘absent stateside’ and overseas)
 - Overseas voters (*i.e.*, all other U.S. citizens residing outside the U.S.)
- **Delivery method:**
 - Mail, fax, e-mail, online, or personal delivery (family member or voter may pick up ballot)
- **Return method:**
 - If overseas voter, by fax, mail, or by personal delivery (by or on behalf of voter)
 - If absentee *stateside* military (& spouse or dependent child thereof) by mail and personal delivery only
- **Count FWAB ONLY:**
 - Previous absentee ballot request on record. (Voter must swear or affirm on FWAB that he or she has not yet received state’s regular vote-by-mail ballot. Closer to election day, a voter could request a regular vote-by-mail ballot and submit a FWAB at the same time)
 - For votes cast in federal, state, and local elections received before 7 p.m. on Election Day. See **Special Note** below regarding 10 day extension for overseas voters.
 - If the FWAB is returned postmarked by Election Day (The statutory presumption is that the return date on a returned overseas vote-by-mail ballot is the date stated on the outside of the return envelope regardless of an absent postmark or a postmark later than Election Day.) (s. 101.6952, F.S.)

STATE WRITE-IN VOTE-BY-MAIL BALLOT (sections 101.6951 and 101.6952, F.S.; Rule 1S-2.028, F.A.C.)

- Available to any overseas voter (but not to absent stateside military)
- Must be requested between 90 and 180 days before a *general* election.
- Must be based on military or other contingency that precludes normal mail delivery of regular vote-by-mail ballot - if voter’s circumstances change, voter should be sent regular vote-by-mail ballot.
- Includes all offices (federal, state, or local) for which voter otherwise entitled to vote.
- Send to voter by mail, fax or e-mail (R1S-2.030, F.A.C.)
- Count if regular vote-by-mail ballot not received by 7 p.m. deadline on Election Day (by mail or fax only) (R1S-2.030, F.A.C.) See **Special Note** below about 10-day extension for overseas voters (s. 101.6952(5), F.S.)

SPECIAL NOTE: The 10-day extension only applies to overseas vote-by-mail ballots (regular, FWAB or State write-in):

- If received after 7 p.m. on Election Day but no later than 10 days thereafter, count all races and ballot measures on ballot, provided the ballot is postmarked or dated by Election Day, and the voter is otherwise eligible.
- The extension only applies in Presidential Preference Primary Elections, general elections, special primary elections and special elections.

CANVASS ORDER OF ABSENTEE/VOTE-BY-MAIL BALLOT. A regular vote-by-mail ballot always trumps a write-in absentee/vote-by-mail ballot if received by 7 p.m., Election Day. If a write-in vote-by-mail ballot (FWAB or state write-in) is returned first, the write-in ballot cannot be canvassed before 7 p.m., to wait for return of the regular vote-by-mail ballot. However, if the write-in ballot from an *overseas* voter is received by 7 p.m. on Election Day, the write-in ballot must be set aside and shall not be canvassed until 10 days after Election Day. If the voter’s regular vote-by-mail ballot is received within the 10-day period and is otherwise proper, that ballot shall be canvassed, and the write-in ballot shall not be counted. If the voter’s official Florida vote-by-mail ballot is not properly received within the 10-day period, the write-in ballot shall then be canvassed.