

Voting by Active Duty Service Members and Severely Disabled Veterans in Presidential Caucuses and Conventions in 2016

By Captain Samuel F. Wright, JAGC, USN (Ret.)²

7.0—Military voting rights

Both major political parties are conducting contested races for the presidential nomination in 2016. Most states will be conducting primaries, and the active duty service member as well as his or her spouse and voting-age dependent is eligible to vote in the primary (as well as the general election) by absentee ballot, under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA).³

On the Republican side, 17 states and territories⁴ will select and/or bind the 2016 Republican National Convention delegates by means of a caucus or convention system, instead of a primary. Almost 190,000 active duty service members and as many as 523,000 disabled veterans are eligible voters in these caucus/convention states.

¹ We invite the reader's attention to www.servicemembers-lawcenter.org. You will find more than 1,400 "Law Review" articles about laws that are especially pertinent to those who serve our country in uniform, along with a detailed Subject Index and a search function, to facilitate finding articles about very specific topics. The Reserve Officers Association (ROA) initiated this column in 1997.

² Captain Wright is the author or co-author of more than 1,200 of the more than 1,400 "Law Review" articles available at www.servicemembers-lawcenter.org. He has been dealing with the federal reemployment statute for 33 years and has been dealing with military voting rights even longer. He has made the protection of the rights of service members the focus of his legal career. He developed the interest and expertise in reemployment rights during the decade (1982-92) that he worked for the United States Department of Labor (DOL) as an attorney. Together with one other DOL attorney (Susan M. Webman), he largely drafted the interagency task force work product that President George H.W. Bush presented to Congress (as his proposal) in February 1991. On October 13, 1994, President Bill Clinton signed into law the Uniformed Services Employment and Reemployment Rights Act (USERRA), Public Law 103-353. The version that President Clinton signed in 1994 was 85% the same as the Webman-Wright draft. Wright has also dealt with the VRRRA and USERRA as a judge advocate in the Navy and Navy Reserve, as an attorney for Employer Support of the Guard and Reserve (ESGR), as an attorney for the United States Office of Special Counsel (OSC), and as an attorney in private practice, at Tully Rinckey PLLC. For the last six years (June 2009 through May 2015), he was the Director of ROA's Service Members Law Center (SMLC), as a full-time employee of ROA. In June 2015, he returned to Tully Rinckey PLLC, this time in an "of counsel" relationship. To schedule a consultation with Samuel F. Wright or another Tully Rinckey PLLC attorney concerning USERRA or other legal issues, please call Mr. Zachary Merriman of the firm's Client Relations Department at (518) 640-3538. Please mention Captain Wright when you call.

³ Please see Law Review 15095 (November 2015).

⁴ These states and territories include Alaska, American Samoa, Colorado, Guam, Hawaii, Iowa, Kansas, Maine, Minnesota, Nevada, North Dakota, Northern Marianas Islands, Utah, Washington, Washington DC, and Wyoming.

At the 2012 Republican National Convention in Tampa, the Republican National Committee (RNC) adopted the rules for the presidential nomination process in 2016. Rule 16(d)(7) provides as follows:

Any process authorized or implemented by a state Republican Party for selecting delegates and alternate delegates or for binding the presidential preference of such delegates shall use every means practicable to guarantee the right of active duty military personnel and individuals unable to attend meetings due to injuries suffered in military service the opportunity to exercise their right to vote in that process. This rule is not intended to and shall not prevent a state from using a caucus or convention process that may or may not elect presidential delegates or alternates.

In preparation for the start of the 2016 presidential nomination process, each Republican state party organization made a detailed written submission about its rules and intended procedures for 2016. The RNC reviewed each of these submissions in detail for compliance with the 2016 rules, including Rule 16(d)(7). The RNC has determined that each state party is in compliance with Rule 16(d)(7).

The RNC has established a website for active duty service members and disabled veterans to use, and that website will be going live before the end of calendar year 2015. The website will be located at www.vets.gop. The individual service member or disabled veteran can use this website to connect to the Republican state party in his or her home state or territory in order to participate in the 2016 delegate selection process without showing up in person.

My good friend Bob Carey is the RNC's Military and Veterans Outreach Director. He was also the Director of the Federal Voting Assistance Program (in the Department of Defense) from 2009 until 2012. He is a recently retired Navy Reserve Captain and a life member of the Reserve Officers Association (ROA). If you need further information about military voting, including Rule 16(d)(7), please contact Bob at (202) 863-8528 or BCarey@gop.com.

The Democratic Party has no rule similar to Rule 16(d)(7), but in Iowa the state Democratic Party organization has adopted a new procedure to permit the individual overseas Iowan (military or civilian) to participate in the "caucus night" proceedings in his or her home precinct by Skype. At its 2016 Convention, the Democratic Party will adopt the presidential nomination procedures for the 2020 election cycle. I hope that the Democratic Party will adopt a rule similar to Republican Rule 16(d)(7).

Readers: Will you be attending the 2016 Democratic National Convention as a delegate or alternate? Do you know someone who will be attending? Please advocate for the adoption of a

rule maximizing the opportunity of active duty service members and disabled veterans to vote in the nomination as well as election of candidates.