

**MEMORANDUM OF AGREEMENT BETWEEN THE UNITED STATES AND THE STATE OF SOUTH CAROLINA, THROUGH CONWAY BELANGIA, THE CHIEF ELECTION OFFICER OF THE STATE OF SOUTH CAROLINA AND THE SOUTH CAROLINA ELECTION COMMISSION, REGARDING COMPLIANCE WITH THE UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT FOR THE AUGUST 11, 2026 SPECIAL PRIMARY ELECTION AND AUGUST 25, 2026 SPECIAL PRIMARY RUNOFF FOR UNITED STATES SENATE**

**I.     Introduction**

This agreement is entered into between the United States of America, through the United States Department of Justice (“United States”), and the State of South Carolina through the Executive Director of the South Carolina State Election Commission, Conway Belangia (“Executive Director”), in his official capacity as Chief Election Officer of the State of South Carolina, and the South Carolina State Election Commission (“Commission”). The purpose of this agreement is to secure the voting rights of absent uniformed services and overseas voters protected by the Uniformed and Overseas Citizens Absentee Voting Act (“UOCAVA”), 52 U.S.C. § 20301, *et seq.* UOCAVA provides that absent uniformed services voters and overseas voters (“UOCAVA Voters”) shall be permitted “to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and runoff elections for Federal Office.” 52 U.S.C. § 20302.

This matter arises out of UOCAVA’s requirement that states transmit validly requested absentee ballots to UOCAVA voters not later than 45 days before an election – including a special election – for Federal office when the voter’s request is received at least 45 days before the election. 52 U.S.C. § 20302(a)(8)(A), *United States v. West Virginia*, No. 2:14-cv-27456, 2014 WL 7338867, at \*5 (S.D.W. Va. Dec. 22, 2014) (holding that transmission of corrected ballots to UOCAVA voters only 32 days before election violated 52 U.S.C. § 20302(a)(8)(A)). Federal law further provides that, where a state holds a runoff for Federal office, there must be “a plan that provides absentee ballots are made available to absent uniformed services voters and overseas voters in a manner that gives them sufficient time to vote in the runoff election.” *Id.* at 20302(a)(9).

The Executive Director's office is the state official responsible for the implementation of UOCAVA in South Carolina, S.C. Code § 7-3-20(D)(15), although the Commission also bears some responsibility for implementing UOCAVA. *See* S.C. Code §§ 7-15-650, 7-15-690. South Carolina's special primary election date is set by statute. S.C. Code § 7-11-55. Due to the death of Senator Lindsey Graham, the special primary election to replace the late Sen. Graham as the Republican nominee for the 2026 General Election must occur on August 11, 2026 and any runoff primary election, if necessary, must occur on August 25, 2026. *Id.*

The South Carolina General Assembly requires a political party's candidate selected through a primary election to be replaced through a "special primary election" if the candidate passes away. S.C. Code § 7-11-55. Individuals interested in running during the special primary must file a statement of intention of candidacy, with a filing period starting the "second Tuesday after the death" and remaining open for one week. *Id.* The special primary election must then occur "on the second Tuesday immediately following the close of the filing period" and any runoff, if a candidate fails to obtain the required percentage of votes cast, "two weeks after the first primary." *Id.* To allow primary voters to select a replacement for the late Senator Lindsey Graham on the Republican ballot, candidate qualifying closes on July 28, 2026 with the Federal special primary occurring on August 11, 2026. These two deadlines require the election to occur 30 days from the date of Sen. Graham's death and 13 days after the candidate filing period. Any runoff election must occur two weeks after the Federal special primary, or 44 days from Sen. Graham's death and 27 days from the close of the candidate filing period. Both the Federal special primary and runoff elections, therefore, must occur in far less than the 45-day requirement set forth in UOCAVA by which applicable voters may request their ballots.

Neither the Executive Director nor the Commission have authority to change the date of the special primary election. S.C. Const. art. II, § 10 and *Bailey*, 844 S.E.2d at 394 (discussing separation of powers in South Carolina). Under South Carolina law, only the South Carolina General Assembly may “regulate the time, place, and manner” of an election. S.C. Const. art. II, § 10, *Bailey v. South Carolina State Election Commission*, 844 S.E.2d 390, 394 (S.C. 2020).

The United States, the Executive Director, and the Commission, through their respective counsels, have conferred and agree that this matter should be resolved without the burden and expense of litigation. The parties share the goal of ensuring that South Carolina’s UOCAVA voters will have sufficient opportunity to request and receive absentee ballots and to submit marked absentee ballots in time to be counted for the August 11, 2026, Federal special primary election and any August 25, 2026, Federal special runoff election, if necessary. As consideration for this Agreement, the United States has agreed to forgo litigation under UOCAVA as to the August 11, 2026, Federal special primary election and any August 25, 2026, Federal special runoff election subject to compliance with the terms of this Agreement. The parties negotiated in good faith and hereby enter into this Agreement as an appropriate resolution of any UOCAVA claims or UOCAVA compliance issues noted by the United States that are caused by the circumstances described above.

## **II. Recitals**

The parties stipulate and agree that:

1. The United States District Court for the District of South Carolina has jurisdiction to enforce the provisions of UOCAVA, 52 U.S.C. §§ 20301 *et seq.*, and the Federal Court would have jurisdiction over an action brought by the United States to enforce the terms of this Agreement.

2. The United States Attorney General is authorized to enforce the provisions of UOCAVA, 52 U.S.C. § 20307.
3. The State of South Carolina, by and through the Executive Director of the Commission, is responsible for complying with UOCAVA and ensuring that validly requested absentee ballots are transmitted to UOCAVA voters in accordance with the statute's terms. 52 U.S.C. § 20302(b).
4. Conway Belangia is the Executive Director of the South Carolina State Election Commission. The Executive Director is the Chief Election Official for the State of South Carolina responsible for overseeing election administration. S.C. Code § 7-3-20(A). The Executive Director's Office is the state office responsible for the implementation of UOCAVA. *Id.* § 7-3-20(D)(15).
5. State law delegates to the Commission the responsibility, "in cooperation with United States government agencies" to "take all steps and action as may be necessary" to "ensure that all South Carolina residents eligible to vote as provided by the [UOCAVA]... have the opportunity to receive and cast any ballot they would have been eligible to cast if they resided in and remained in South Carolina." S.C. Code § 7-15-690. This includes runoff elections. *Id.* § 7-15-650.
6. Under State law, the Executive Director and the State Election Commission are, therefore, jointly responsible for ensuring South Carolina's compliance with UOCAVA.
7. Section 102(a)(8)(A) of UOCAVA requires that states transmit validly requested ballots to UOCAVA voters not later than 45 days before an election for Federal office when the request is received at least 45 days before the election, unless a waiver is granted

by the Department of Defense pursuant to Section 102(g) of UOCAVA. 52 U.S.C. § 20302(a)(8)(A), (g).

8. No waiver can be provided under the circumstances. None of the hardship criteria set forth in Section 102(g)(2) apply to South Carolina's special primary and runoff elections. 52 U.S.C. § 20302(g)(2).
9. Absent any intervening legislative or judicial action, South Carolina will conduct a special primary election on August 11, 2026, and any runoff on August 25, 2026, in which voters will select the Republican candidate for U.S. Senate who will stand for election during the Federal general election on November 3, 2026.
10. For the June 9, 2026 primary for Federal office, South Carolina received timely requests for absentee ballots from approximately 1,051 voters who are entitled to cast ballots pursuant to the provisions of UOCAVA.
11. For the August 11, 2026, special primary election, to fully comply with UOCAVA, South Carolina would have needed to send absentee ballots to UOCAVA qualified voters no later than June 27, 2026, which was before Sen. Graham passed away and more than a month before the resulting candidate filing period would end under South Carolina law.
12. The State takes the position under South Carolina law that UOCAVA voters who participated in the June 9, 2026, Democratic Party Primary election are ineligible to participate in the August 11, 2026, Federal special primary election or August 25, 2026 runoff election. *See* S.C. Code § 7-13-1010.
13. South Carolina's inability to transmit ballots to UOCAVA voters by the 45th day before the August 11, 2026, Federal special primary election may violate 52 U.S.C.

§ 20302(a)(8)(A). Absent corrective action, the inability of election officials in South Carolina to notify UOCAVA voters about the special primary election and provide the opportunity for those voters to request absentee ballots by the 45th day in advance of the August 11, 2026 Federal special primary election would deprive United States citizens protected under UOCAVA of a sufficient opportunity to vote in that election.

14. The parties have engaged in extensive discussions and have reached an agreement on a series of actions that the State will take to remedy any potential violation of 52 U.S.C. § 20302(a)(8)(A) arising from some South Carolina elections officials' inability to comply with the UOCAVA deadline to transmit UOCAVA ballots for the August 11, 2026, Federal special primary election, which could result in some UOCAVA voters not having a sufficient opportunity to receive, mark, and timely return the absentee ballots they have requested in time for them to count in aforementioned, Federal special primary election or runoff. It is the intent of the parties that the State immediately undertake and complete the actions set forth in this Agreement.

15. The parties recognize that the Executive Director, the Commission, and the State have taken actions to begin implementation of this Agreement. Among these actions:

- a. South Carolina law permits UOCAVA voters who provide an email address to request that their UOCAVA application "be considered a standing request for electronic delivery of a ballot for all elections held through December thirty-first of the year following the calendar year of the date of the application." S.C. Code § 7-15-730.
- b. Pursuant to S.C. Code § 7-15-690, State Election Commission Policy and Procedures permit UOCAVA voters to receive and return absentee ballots via

electronic transmissions to their county elections office. Military & Overseas Citizens. *See also, What is the easiest way to vote as a UOCAVA Voter*, and *How do I return my ballot*, South Carolina Election Commission, <https://scvotes.gov/voters/military-overseas-citizens/> (last accessed July 14, 2026).

- c. Acting upon its authority under S.C. Code § 7-15-650, the State Election Commission employs an Instant Runoff Voting (IRV) for UOCAVA voters in primary election which allows those voters to “rank the primary candidates and serve[ ] as the [their] ballot[s] in the event of a runoff.” *Id.* at *What is Instant Runoff Voting (IRV)*. If the UOCAVA voter’s primary candidate does not make the runoff, the “highest ranked candidate of the two remaining will receive the voter’s vote in the runoff.” *Id.* *See also* 52 U.S.C. § 20302(a)(9).

16. The parties agree that the terms specified in this Agreement, in addition to the actions described above in paragraph 15, will provide sufficient time for UOCAVA voters to receive, mark, and timely return their absentee ballots so they can be counted in the August 11, 2026, Federal special primary election and August 25, 2026 special primary runoff, if necessary.

### **III. Terms of Agreement**

Now, therefore, for full and adequate consideration given and received, the United States, the Executive Director and the Commission agree that:

1. The State through the Executive Director and the Commission shall contact all counties regarding the compressed timeline for the Federal special primary election and explain the counties’ responsibilities to receive and process applications to vote absentee under

UOCAVA, transmit ballots to UOCAVA voters, or any other responsibility to facilitate the process by which UOCAVA voters receive and return their completed ballots.

2. No later than August 1, 2026, the State through the Executive Director and the Commission shall ensure that the county boards of elections transmit ballots for the August 11, 2026 Federal special primary election electronically to all of the State's UOCAVA voters who have validly requested such ballots, including those who, as part of their application, requested that they remain on the permanent list through December 31, 2027, and who provided their email addresses to State or County election officials. The ballots will include Instant Runoff Voting for a potential runoff election on August 25, 2026.
3. All UOCAVA ballots transmitted shall include information that UOCAVA voters may transmit their completed ballots to the counties by email. Similarly, information transmitted with the ballot shall state that all UOCAVA ballots must be received by county election officials no later than August 11, 2026, at 7:00 pm eastern daylight time, whether by electronic transmission, express mail, or post. For UOCAVA voters participating only in a potential runoff election, ballots must be received by county election officials no later than August 25, 2026, at 7:00 pm eastern daylight time, whether by electronic transmission, express mail, or post.
4. By July 24, 2026, the State through the Executive Director and the Commission shall affirmatively contact all eligible UOCAVA voters who have not requested that their applications "be considered a standing request" to receive electronic ballots for all elections held through December 31, 2027, and notify them of the Federal special primary election and potential runoff election. The information provided shall include

details on how UOCAVA voters may request, complete, and return the completed ballots by email to their county election officials, including the deadlines for when ballots need to be received.

5. By no later than Friday, July 24, 2026, the State through the Executive Director and the Commission shall contact all eligible UOCAVA voters who participated in the June 9, 2026 primary election for Federal office and/or the June 23, 2026 runoff and who requested their ballots by mail. The State shall inform the voters contacted of the compressed timelines for the Federal special primary and runoff and request that they provide an email address or other manner to deliver the ballots electronically if those voters wish to participate in the August 11, 2026, Federal special primary and August 25, 2026, runoff. The information provided shall include details on how UOCAVA voters may request, complete, and return the completed ballots by email to their county election officials, including the deadlines for when ballots need to be received.
6. By no later than July 24, 2026, the State through the Executive Director and the Commission shall publicize the deadlines about the special primary and runoff elections and the information in this Memorandum of Agreement to potential South Carolina UOCAVA voters including providing information to the Federal Voting Assistance Program (FVAP) for inclusion on their website and emails sent by FVAP. The information published shall include details on how UOCAVA voters may request, complete, and return the completed ballots to their county election officials and the availability of the Federal Write-In Absentee Ballot to participate in the primary election and runoff, including the deadline for when ballots need to be received.

7. Should it at any time appear that any South Carolina election official will be unable to transmit UOCAVA ballots for the August 11, 2026 Federal special primary election by August 1, 2026, or the State through the Executive Director or Commission, determines it is impossible to do so for any reason, the Executive Director and the Commission shall immediately notify the United States of the circumstances causing the expected delay, and the parties shall meet and confer to discuss appropriate modification of this Agreement or other necessary remedial measures.
8. The State shall provide a report to the United States Department of Justice no later than Tuesday, August 4, 2026, concerning the transmittal of UOCAVA ballots for the August 11, 2026 Federal special primary election. The report shall (a) certify when ballots were transmitted in each county; and (b) specify for each county the number of requests received, the number of UOCAVA ballots transmitted, and the method of transmittal.
9. The State shall provide a report to the United States Department of Justice no later than August 30, 2026, in a format agreed to by the parties to this Agreement, concerning the UOCAVA ballots received and counted for the August 11, 2026 Federal primary special election and the August 25, 2026, Federal primary runoff election, if necessary.
10. In consideration of the State through the Executive Director complying with the terms of this Agreement, the United States agrees to forgo litigation under UOCAVA as to the August 11, 2026 Federal special primary election and the August 25, 2026 Federal special runoff primary election.
11. In the event of any intervening change in Federal or state law or modification of the dates of, or deadlines associated with, the August 11, 2026 Federal special primary election and any August 25, 2026 Federal special runoff election, the parties agree to

work cooperatively to modify this Agreement, if necessary, to address any actual or potential UOCAVA-related issues.

**IV. Time Period of Agreement**

The State's obligations under this Agreement shall commence immediately and shall expire in their entirety on September 18, 2026.

**V. Enforcement**

The terms of this Agreement are intended to resolve the potential violation of 52 U.S.C. §§ 20302(a)(8) and 20302(a)(9) arising from the anticipated late transmission of all UOCAVA ballots requested by qualified South Carolina voters for the August 11, 2026, Federal special primary election and August 25, 2026 Federal special runoff election, if necessary.

If the parties are unable to resolve any dispute regarding the terms of this Agreement, the parties agree that the dispute may be resolved by the United States District Court for the District of South Carolina in an action brought by the United States to enforce this Agreement and/or UOCAVA.

Where the State materially fails in any manner to comply with the terms of this Agreement, this Agreement is enforceable immediately in the United States District Court for the District of South Carolina as set forth above, and additionally, in such event, the United States may also take any other actions necessary to enforce 52 U.S.C. §§ 20302(a)(8) and 20302(a)(9) in the United States District Court, including seeking appropriate relief as a substitute for or in addition to the actions that are subject of this Agreement. Nothing in this Agreement precludes the State from modifying or amending South Carolina law or the United States from taking appropriate enforcement action against the State for any other violations of UOCAVA that are not the subject of this Agreement.

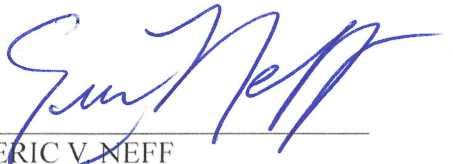
**VI. General**

This Agreement is binding on the parties and their successors in office. The parties agree to the admissibility of this Agreement in any subsequent proceeding for its enforcement, or other action filed to enforce any violation of UOCAVA, 52 U.S.C. § 20301, *et seq.*

FOR THE UNITED STATES:

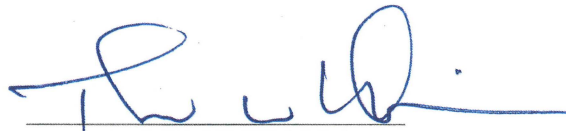
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