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Re: APWU Comments on Proposed Rule: *Ballot Mail for Federal Elections*

UNPRINCIPLED

UNWORKABLE

UNLAWFUL

The American Postal Workers Union, AFL-CIO ("APWU") submits these comments on the Postal Service's proposed rule on *Ballot Mail for Federal Elections* with the utmost concern for the Postal Service's reckless departure from the heartbeat of a vital public service.

The Postal Service's proposed rule is unprincipled, unworkable, and unlawful. Its very proposal, even if it is never finalized, undermines one of the most important functions the Postal Service and postal workers perform in service of the United States and its remarkable democracy. The APWU hopes these comments will be a reminder of the Postal Service's unique history as an independent federal agency, the success of voting by mail, and the threat to service and operations if the proposed rule is implemented.

To be clear, the APWU believes the proposed rule should be abandoned entirely. No amount of changes can correct its deficiencies and adoption of any part of the rule will crush mailers' trust in the Postal Service and drive even more people from First Class Mail.

BACKGROUND

The Postal Service was signed into existence by President Nixon in 1970 in response to a degradation of service and working conditions caused, in large part, by Presidential and Congressional meddling in the Post Office Department's operations. Prior to postal reorganization, pay and working conditions at the almost two-hundred-year-old Post Office Department were in rapid decline. Despite a history of innovation in creating critical American infrastructure, the previously Cabinet-level Postmaster General and the Post Office Department found themselves facing serious employee frustration in the late 1960s.¹ On March 12, 1970, Congress voted for huge pay raises for the President and themselves, but paltry raises for postal workers. By March 18, 1970, postal workers went out on the largest wildcat strike in U.S. history, with hundreds of thousands of postal workers in cities across the country striking the federal government.

The Great Postal Strike of 1970 brought about unprecedented postal reform. In August 1970, President Nixon signed the Postal Reorganization Act of 1970 ("PRA").² The PRA codified postal workers' right to collective bargaining and entitled them to significant improvements in wages and working conditions.³ It also transformed the Post Office Department from a taxpayer-funded federal agency into today's U.S. Postal Service—an independent agency modeled on private-sector corporations and structured to be self-supporting, without reliance on taxpayer dollars. The PRA established an independent Board of Governors that hires and fires the Postmaster General. Critically, the PRA established that Congress and the White House have no control or authority over postal operations. Simply put, the Postal Service was designed by Congress to operate outside of and unaffected by politics and politicians.

The Postal Reorganization Act is a promise to the American public that⁴:

The Postal Service shall have as its basic function the obligation to provide postal services to bind the Nation together through the personal, educational, literary, and business correspondence of the people.

¹ H.R. Rep. No. 94-25, at 14-18 (1968).

² 39 U.S.C. §101 et seq.

³ See Presidential Statement to Congress: Nixon's Message on Postal Reorganization (April 16, 1970).

⁴ 39 U.S.C. §§ 101 (a), (e).

... In determining all policies for postal service, the Postal Service shall give the highest consideration to the requirement for the most expeditious collection, transportation, and delivery of important letter mail.

Today, the Postal Service operates more than 32,600 retail locations and serves 157.8 million residences and 12.6 million businesses six days a week.⁵

The APWU represents thousands of workers in the \$1.9 trillion mailing industry in the United States. Over 120,000 of those workers are postal clerks who work in retail post offices and mail processing facilities in every state and territory. Postal clerks are indispensable to the Postal Service. They work at retail post office windows, handle bulk mail entry, and process mail as it works its way through the Postal Service's vast national network. The postal regulations that clerks follow are extensive. The Domestic Mail Manual, for example, which the proposed rule intends to amend, is over 1,250 pages long. Clerks are expected to know these regulations as part of their jobs.

Window clerks work at retail post offices of all sizes. Most window clerks use point-of-sale programs and the postal intranet, but access varies depending on the training of the clerk and Internet connectivity, especially in smaller offices. Bulk Mail Technicians work with mailers sending or receiving bulk mail, and they specialize in the unique rules and requirements for bulk mailing. Bulk Mail Technicians normally work at certain larger postal facilities that are equipped to handle bulk mailings.

Voting by mail is a fundamental civic service the Postal Service is specially equipped to provide American voters. The Postal Service has moved Ballots through the mail since the Civil War, when states introduced absentee voting by mail for military personnel.⁶ Over time, state legislators enacted laws allowing for voting by mail not only for active military but also people choosing to vote by mail in lieu of visiting their polling places.⁷ Today, voting by mail is a mainstay. Many civic organizations, election officials, and voters see voting by mail as a meaningful way for Americans to vote, regardless of political party. Workers, military personal, teachers, the disabled, elderly people and students agree that more access to the ballot box through voting by mail is a huge benefit.

⁵ <https://facts.usps.com/top-facts/>

⁶ National Postal Museum, "What is Election Mail and its History in the US?" Available at: <https://postalmuseum.si.edu/what-is-election-mail-and-its-history-in-the-us>.

⁷ See *id.*

Voting is not uniform across the country, but postal policy is. This is especially important given that “[e]lection administration in America is highly decentralized. There are more than 10,000 election jurisdictions in the U.S. The size of these jurisdictions varies, with the smallest towns having only a few hundred registered voters and the largest jurisdiction in the country with over 5 million.”⁸ To equitably handle Mail Ballots coming from and going to a variety of locations, each with different voting rules, postal policy is simple: prioritize Election Mail – especially Ballots -- regardless of its paid class, so that it is processed and delivered as expeditiously as possible.

Voting by mail took on a new importance during the COVID-19 pandemic. Faced with an influx of Mail Ballots and the challenges of postal workers reporting to work in the midst of a pandemic, voting by mail was engrained even deeper into postal policy and practices. Even as postal workers were dying from COVID-19, they elevated their long-standing policies and practices of prioritizing Ballots and giving them First Class Mail treatment regardless of how they were mailed. The Postal Service instituted “extraordinary measures” to ensure careful handling of Election Mail in the weeks preceding an election.⁹

The USPS Inspector General reported that the Postal Service delivered over 135 million Ballots to or from voters in the 2020 general election.¹⁰ The Inspector General also noted the growing popularity of voting by mail even before the pandemic.¹¹

Postal clerks are supposed to receive continual training on the special handling of Election Mail, particularly Ballots. In January of this year, for example, the Postal Service issued the first of its 2026 General Election Mail Preparedness Memoranda detailing the “robust practices and procedures that we employ every federal election cycle...” Prior to an election mail cycle, clerks should receive refresher training on Election Mail procedures. This special training is delivered through manager ‘stand up talks’ and on the Postal Service’s intranet. Postal employees also learn how to implement rules and practices from their experienced co-workers.

The APWU negotiated an Election Mail Task Force Memorandum of Understanding (“MOU”) in its 2021 collective bargaining agreement which was renewed in the current

⁸ <https://www.eac.gov/who-is-in-charge-of-elections-in-my-state>.

⁹ U.S. Postal Service, 2020 Post-Election Analysis, pp. 16-17. Available at: https://about.usps.com/newsroom/national-releases/2021/usps_postelectionanalysis_1-12-21_georgia.pdf.

¹⁰ See USPS OIG Report No. RISC-WP-21-004, p.1 (June 1, 2021).

¹¹ *Id.*

contract. The MOU recognizes "...the critical and continuing role of the Postal Service in the nation's electoral process," and commits that "[t]he Task Force will meet bi-annually, or as otherwise agreed, to discuss federal election mail topics." Consistent with the MOU, the APWU and the Postal Service have met several times to prepare for federal elections.

Today, the Postal Service is facing a **serious financial solvency crisis**. On March 17, 2026, Postmaster General David Steiner testified before the House Committee on Oversight and Government Reform's Subcommittee on Government Operations. At the outset of his testimony, he said:

I am not sure that the American public is aware that the Postal Service is at a critical juncture. I know that I wasn't aware of the extent of it before I took on this role, but at our current run rate and if we continue to pay our required obligations in the same manner as we have done in recent years, then we will be out of cash in less than 12 months. So, *less than a year from now the Postal Service will be unable to deliver the mail if we maintain the status quo*.¹²

At the same time, service is suffering. As a fulfillment vendor noted:¹³

The service-quality side of the equation has not held up either. First-Class Mail on-time performance fell from 91 percent in FY2022 to roughly 86 percent in FY2025, even though USPS stretched its own service standards from a 1-to-3 day window to 1-to-5 days for some lanes.

Two weeks after Postmaster General Steiner's testimony, the White House issued Executive Order 14399, *Ensuring Citizenship Verification and Integrity in Federal Elections*.¹⁴

On June 2, 2026, the Postal Service published the **proposed rule** to amend the requirements for accepting mail-in or absentee Ballots for federal elections. The proposed rule is purportedly necessitated by Executive Order 14399. The proposed rule would make certain mail piece design best practices *mandatory* and require a state to register

¹² *Oversight of the Postal Service: The Financial Future under Postmaster General Steiner*, 119th Cong. (2026) (statement of David Steiner), p. 2 (emphasis added). Available at: <https://oversight.house.gov/wp-content/uploads/2026/03/Steiner-Written-Testimony.pdf>.

¹³ <https://gowarpspeed.com/blog/usps-2026-rate-hikes#src-17>.

¹⁴ 91 Fed. Reg. 17125 (2026).

the recipients of the state’s Mail Ballots with the Postal Service in a new Ballot Portal. If a state did not register or a Ballot did not meet the new design requirements, clerks—represented by the APWU—would be required to reject the Ballot for mailing.¹⁵

Despite the Task Force and regular communications with postal management, the Postal Service did not inform the APWU about its proposed rulemaking. When the APWU raised the proposed rules, the Postal Service declined to discuss them. The Postal Service has not informed employees about changes to the current Election Mail policies and practices.

UNPRINCIPLED

There is no principled reason for the Postal Service to propose restrictions on Ballots.

The proposed regulations are historic in the worst way. They represent the first time in the Postal Service’s 251-year history that the Postal Service has created a rule to reject a national category of lawful non-profit government mail—Ballots, at that—because the mail does not meet postal design requirements. And they represent the first time in the Postal Service’s history that the Postal Service has created a rule to reject First Class Mail unless the mailer registers the recipients of the mail pieces with the Postal Service.

The Postal Service says that it is enacting regulations because it “understands” they “will facilitate the faithful execution of federal law.” The only federal law the Postal Service points to outside of its own enabling act is Executive Order 14399.

The Executive Order is not federal law. Its baseless allegations of voter fraud by Americans who vote by mail are not federal law. The American justice system is based on assumptions of innocence and, in this case, that means people using the mail to vote are doing so lawfully. Building a system to catch people the Postal Service has no legal evidence even exist is a gross abuse of the Postal Service’s obligation as an independent federal agency to ground its regulations and conduct in the law.

In any case, the Postal Service has never considered itself bound by an Executive Order until now. As an independent agency designed by Congress to stay outside of politics and the influence of politicians, the Postal Service has always vigorously challenged

¹⁵ Ballot Mail for Federal Elections, 91 Fed. Reg. 32915 (proposed June 2, 2026) (to be codified at 39 C.F.R. pt. 111).

efforts to bind it to Executive Branch directives. Now is not the time to abandon that principle.

The Postal Service's claims that the data it will be collecting on Americans who vote by mail will assist law enforcement is nonsensical. Data on the number of Ballots mailed and returned tells the Postal Service and law enforcement nothing. Voter fraud through the mail is misconduct that, consistent with the U.S. Constitution, state election officials are obligated to handle, not the Postal Service. In truth, the only law enforcement ends the Postal Service achieves with the proposed rule is creating a surveillance state for Americans who vote through the mail.

That is not the mission and purpose of the Postal Service. The Postal Service has never monitored presumptively lawful First Class Mail, especially Ballots which are held in their own category that receives special treatment better than First Class Mail. First Class Mail is available to every American without restriction to mail any lawful item without limitation. That is the promise of the Postal Service as a basic and fundamental service provided to Americans by the federal government.¹⁶

The Board of Governors promised the Postal Service's mission in the 21st Century is:¹⁷

- To serve the American people and, through the universal service obligation, bind our nation together by maintaining and operating our unique, vital and resilient infrastructure.
- To provide trusted, safe and secure communications and services between our Government and the American people, businesses and their customers, and the American people with each other.
- To serve all areas of our nation, making full use of evolving technologies.

Especially when based on dubious legal authority, the Postal Service should uphold its purpose and mission and not rely Executive Order 14399 as reason to change its principles and practices on Ballots.

¹⁶ 39 U.S.C. 101(a).

¹⁷ Postal Board of Governors *Mission Statement* (adopted April 1, 2020).

UNWORKABLE

It does not make sense that Postmaster General Steiner cries to Congress that the Postal Service is broke and then imposes on the Postal Service extraordinarily expensive obligations that will cut revenue. Conforming postal practices to the proposed rule is logistically and financially impossible. The Postal Service does not have the resources to set up the internal systems to implement this proposed rulemaking. Compounding the cost of the rule is that it will reduce revenue from Ballot mailings that the Postal Service turns away. Given the Postal Service's fragile financial system, moving forward in any respect with the proposed rule is a lose-lose proposition for the Postal Service.

Establishing its own Ballot Portal would require hiring an outside vendor to design a secure database. Even if the Postal Service uses resources from other federal agencies, retrofitting a government portal so it can be accessed by potentially thousands of election officials in real-time and also be available to postal clerks in every retail office is plainly fanciful. The cost of the resources to design, use, and maintain a database with thousands of access points to personal information of millions of Americans is extraordinary as are the consequences if the Postal Service opts to not invest heavily in securing the Ballot Portal. The Postal Service does not have these resources, and likely never will if it pursues this attack on Americans who vote by mail.

The resources the Postal Service will have to put into this rule will have to be stretched to every post office, too. Today, when Ballots arrive in bulk at a post office, they avoid the window and are scanned electronically in bulk. Once scanned, postal clerks work tirelessly to ensure that Ballots received on a given day are placed in an outgoing truck the same day. Under the proposed rule, clerks will have to review and scan every single ballot that comes into the post office to ensure they meet the mail piece design and Ballot Portal requirements. Ballots that have to be individually reviewed could come into the window at almost any post office (according to the proposed rule, any Ballot mailing of 199 or less pieces of Marketing Mail or 499 or less pieces of First Class Mail can be mailed at the window in a post office) which will slow down window service for other postal customers. Bulk Mail Technicians do not presently review every single piece of bulk mail, so individually reviewing hundreds or thousands of Ballots means bulk mail services will be slowed down too. And ultimately, such individual assessment will mean that Ballots that make it through this gauntlet may be delayed in getting out to voters. What happens to the other lawful Ballots that do not make it through is impossible to say.

Clerks around the country will have to be trained on the new requirements and systems. This is not a small or simple task. The Postal Service has to design and publish training materials to tens of thousands of clerks and supervisors. It typically takes months for the Postal Service to refine existing training materials, and longer still to create entirely new training programs. Add to this more months for employees to take the new training. The Postal Service will have to staff up to do the external training for election officials on the new requirements as well, and ensure that all of the information being given to the public is reconciled. The Postal Service does not have the time or resources for this exercise.

The biggest barrier to implementing the proposed rule is, however, cultural. The Postal Service will not be able to get away with a webinar and stand up talk telling clerks to turn away lawful mail, particularly Ballots. That instruction is the opposite of what clerks and supervisors have been trained to do with Election Mail for literally decades. The Postal Service is also going to have to reconcile what happens when, predictably, this new system fails and the clerk cannot confirm whether the mail piece design is correct or the addressee is in the Ballot Portal. At that moment, hopefully clerks will follow their training and accept the Ballot, and hopefully the Postal Service will defend their decision to do so.

UNLAWFUL

The Postal Service's introduction to the proposed rule references general provisions in the PRA that give it authority to make rules and regulations about postal operations. The Postal Service fails, however, to explain how its proposed rule is lawful under the provisions of the PRA that speak to the substance of postal policies rather than the general authority to make them.

Procedurally, although the Postal Service is not covered by the Administrative Procedure Act, the Postal Service does not explain how this drastic change in mailing rules for Ballots does not have to go before the Postal Regulatory Commission for review. And once there, the Postal Service also cannot explain how these prohibitions on accepting Ballots squares with the Postal Service's statutory obligation to accept and deliver all mail to any address in the country, especially Ballots. It is a commitment written clearly in the law and affirmed by the Postal Service over the years through its actions, its settlements, and its other regulations and internal rules.

It is possible, too, that postal clerks applying the proposed rule would do so in violation of the law. All postal employees, including the people reviewing these comments, take an oath of office that: "I, _____, do solemnly swear (or affirm) that I will support and

defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter.”¹⁸

The APWU questions whether postal clerks who are instructed to turn away lawful First Class Mail because it is a Ballot that does not meet mail piece design rules or the addressee’s name is not in the Ballot Portal can do so lawfully in light of their oath of office. Postal clerks’ duty is to receive and process mail. *All mail*. At the same time, if a clerk upheld their oath of office and accepted a Ballot despite it lacking the requisite mail piece design or the recipient’s name not appearing in the Ballot Portal, the APWU is concerned that the clerk will be prosecuted under Executive Order 14399.¹⁹ The Postal Service should not make its own workers choose between their oath and duty and a rule based on an unlawful directive.

Postal workers follow a simple ethos: all Ballots are welcome into the postal network and are moved as expeditiously as possible. Postal workers do not inspect or reject Ballots. All Ballots, regardless of how they look or where they are going, should be moved through the postal network as fast as possible. The proposed rule upends this principle and would thwart the uniform and expeditious handling of Election Mail and Ballots.

The U.S. Postal Service is the best way to vote by mail in the world. The Postal Service’s proposed rulemaking grossly diminishes the Postal Service’s history and reputation around voting by mail. Already the public is confused and concerned; the damage this rule will do to service and the Postal Service’s reputation is truly unprecedented. Frustrating the public and disenfranchising eligible voters is a harm to the Postal Service’s reputation it will never recover from. Following an Executive Order it is not required to follow harms the Postal Service’s independence in a way it may not get back. And unreasonably burdening postal workers and causing longer lines and slower service will harm the Postal Service’s reliability which may break a fragile bottom-line.

¹⁸ 39 U.S.C. §1011.

¹⁹ See 91 Fed. Reg. 17125 Section 5.

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Postal employees are committed to ensuring Ballots continue to receive the same extraordinary measures and treatment they have for generations. We urge the Postal Service to return to its core principles and join its employees in preserving the American right to vote. The proposed rules should be withdrawn.

Respectfully submitted,

A handwritten signature in cursive script that reads "Jonathan Smith".

Jonathan Smith
President