



From: Public Records <publicrecords@sos.wa.gov>
Date: Monday, October 12, 2020 at 1:45 PM
To: AO Records <records@americanoversight.org>
Subject: RE: Public Records Request (WA-SOS-20-2118)

EXTERNAL SENDER

Dear Mr. Evers,

Thank you for your request. Attached are a few records we found already for your request. I estimate the completion of your request to be no later than November 10, 2020. We will send batches of records as they become ready.

Regards,

Brenda Galarza

Records/Public Disclosure Officer
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From: Augino, Lori <lori.augino@sos.wa.gov>
Sent: Thursday, September 17, 2020 1:51 PM EDT
To: Burns, Justin <justin.burns@sos.wa.gov>
CC: Neary, Mark <mark.neary@sos.wa.gov>
Subject: FW: NASS Elections Committee: Call Reminder for Tomorrow at 2:30PM ET with US Postmaster General DeJoy, Reminder - NASS Tech Talk Tomorrow at 4PM ET
Attachment(s): "NASS Weekly Elections Committee Call - 9/17/2020 ", "NASS Tech Talk - September 2020 "

Justin –

Sharing info on today's NASS tech talk. You may want to dial in. See below...

From: Reynolds, Leslie [mailto:reynolds@sso.org]
Sent: Wednesday, September 16, 2020 4:56 PM
To: Reynolds, Leslie <reynolds@sso.org>
Cc: Dodd, Stacy <sdodd@sso.org>; Milhofer, John <jmilhofer@sso.org>; Maria Benson <mbenson@sso.org>; Lindsey Forson <lforson@sso.org>
Subject: NASS Elections Committee: Call Reminder for Tomorrow at 2:30PM ET with US Postmaster General DeJoy, Reminder - NASS Tech Talk Tomorrow at 4PM ET
Importance: High

Dear NASS Elections Committee, IT Directors and Communications Directors:

NASS Elections Committee Call Reminder at 2:30 PM ET– with US Postmaster General DeJoy

Don't forget our call tomorrow at 2:30PM ET. Calendar invite is attached. It will be best if you login in to GoToMeeting as opposed to calling in, so we can see who is participating and you can be acknowledged utilizing the chat feature. NASED will be joining us for this call to ensure that all chief state election officials are included.

NASS Tech Talk Reminder – Tomorrow at 4PM ET

Please be sure to remind your IT folks to login into the NASS Tech Talk tomorrow at 4PM ET. Discussion topics will include the new DHS/CISA Crossfeed Program. We learned about this program last week on the Elections Committee call. Remember this program will begin shortly and **you need to opt-out if you do not want to participate**.

We look forward to “seeing” you tomorrow.

Best,
Leslie

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Subject: NASS Tech Talk - September 2020

Location: Go To Meeting

Start: Thursday, September 17, 2020 4:00 PM EDT

End: Thursday, September 17, 2020 5:00 PM EDT

Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Required Attendees: Lindsey Forson <lforson@sso.org>

NASS Tech Talk - September 2020

Thu, Sep 17, 2020 4:00 PM - 5:00 PM (EDT)

Please join my meeting from your computer, tablet or smartphone.

Subject: NASS Weekly Elections Committee Call - 9/17/2020

Location: GoToMeeting

Start: Thursday, September 17, 2020 2:30 PM EDT

End: Thursday, September 17, 2020 3:30 PM EDT

Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Required Attendees: Dodd, Stacy <sdodd@sso.org>

NASS Weekly Elections Committee Call - 9/17/2020

Thu, Sep 17, 2020 2:30 PM - 3:30 PM (EDT)

Please join my meeting from your computer, tablet or smartphone.

From: Reynolds, Leslie <reynolds@sso.org>
Sent: Friday, September 18, 2020 5:09 PM EDT
To: Reynolds, Leslie <reynolds@sso.org>
CC: Dodd, Stacy <sdodd@sso.org>; Maria Benson <mbenson@sso.org>; Lindsey Forson <lforson@sso.org>; Milhofer, John <jmilhofer@sso.org>
Subject: NASS Elections Committee: Election Call Invite for 9/24, Notes from 9/17 Call, USPS Follow Up, CISA Call Invitation 9/25, NASS November 2020 Election FAQs, Election Security Legislation Passes House, NASS Cybersecurity Co-Chairs OP-ED
Attachment(s): "NASS Weekly Elections Committee Call - 9/24/2020", "notes-elections-091720.docx", "CISA/EIS Election Partner Update Call", "FAQs-election-2020-draft.docx", "summary-hr4990-sept20.docx"

Dear NASS Elections Committee, Comms Directors and IT Directors:

NASS Elections Committee Call Reminder for 9/24 at 2:30PM ET – Calendar Invite Attached

Attached you will find the call reminder for next Thursday. We do not have any invited guests/participants, so this will be an opportunity to return to questions and info sharing between colleagues!

Call Notes from Elections Committee Call Yesterday (9/17) with US PMG

Attached you will find the notes from the call yesterday with the PMG.

Follow Up on USPS and Some Radio Ads

We learned this morning that there may be some USPS radio ads about election mail out there. We reached out to our USPS contacts on the call yesterday to find out what was happening. USPS halted all election mail media on Monday, Sept 14 so as to address questions and concerns from state election officials. However a couple of radio stations in OR and MA didn't get the memo, so USPS Brand Marketing is reaching out directly to those stations to stop running the ads. If you hear any radio ads in your area, please let us know so we can forward that info to USPS. It won't go on long, because the stations aren't getting paid for those ads ☺

Reminder of CISA Election Partner Update Call (Unclassified Threat Assessment) on Friday, September 25 at 2:30PM ET– Calendar Invite Attached

Attached is a calendar invite/reminder for the CISA update call for next Friday. This is the second in a series of calls hosted by CISA to provide the most recent threat info (unclassified) and briefings from other federal agencies (FBI, EAC, CDC, etc.)

NASS Draft FAQs on the November 2020 Election – PLEASE REVIEW

NASS staff has developed a FAQ document for the most common questions we see/hear around the November 2020 General Election. We hope it is broad enough to cover every state, and we link to canivote.org for specific state info on the topic, along with any of our relevant [state-by-state research](#), or [NCSL state election law research](#). We realize that on some issues (like ballot return deadlines) the landscape is ever-changing, but we are tracking to keep up. We don't want to repeat mistakes made by other organizations by providing misinformation, so we are asking you to do a review (it's quick!) and provide me any feedback. We are also hoping that a release of this document will help enforce our #TrustedInfo2020 campaign by directing voters to you at trusted sources of election information. **Please review and comment COB on Friday, September 25.**

House Passes HR 4990 The Election Technology Research Act of 2020

Earlier this week, the House passed, under a suspension of the rules by unanimous consent, [HR 4990](#) The Election Technology Research Act of 2020. This bipartisan bill was first introduced in November 2019 and because of its bipartisan nature we shared a summary with you at the time. Attached you will find an updated summary, with a few changes between the version that was introduced and the version that passed this week.

As we noted last year when the bill was introduced, this legislation changes the definition of a voting system to include "any other paper or electronic technologies or processes for collecting, storing, or transmitting personal information of voters for use in the administration of elections for Federal office including, electronic poll books; voter registration databases and systems, including online interfaces; systems for carrying out post-election auditing; and chain-of-custody procedures." It is also not clear to me what the distinction will be between the Centers for Excellence in Election Systems and the Elections Systems Research Centers.

We have not seen any Senate companion legislation for this bill.

NASS Cybersecurity Co-Chairs Pen Op-Ed for StateScoop on Election Cybersecurity

NASS Cybersecurity Committee Co-Chairs, Hon. Maggie Toulouse Oliver (NM) and Hon. Paul Pate (IA) wrote a great op-ed for StateScoop on [Election Cybersecurity](#).

Have a nice weekend.

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Subject: CISA/EIS Election Partner Update Call
Location: 800-926-5230

Start: Friday, September 25, 2020 2:30 PM EDT
End: Friday, September 25, 2020 3:30 PM EDT
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Required Attendees: micjax@amazon.com <micjax@amazon.com>; leozh@amazon.com <leozh@amazon.com>; kagansky@amazon.com <kagansky@amazon.com>; awsmikek@amazon.com <awsmikek@amazon.com>; judneer@amazon.com <judneer@amazon.com>; siegeljo@amazon.com <siegeljo@amazon.com>; mlsouth@amazon.com <mlsouth@amazon.com>; awstonya@amazon.com <awstonya@amazon.com>; vbborras@amazon.com <vbborras@amazon.com>; mhouse@ap.org <mhouse@ap.org>; drehill@ap.org <drehill@ap.org>; venkat@arikkan.com <venkat@arikkan.com>; solsen@ballottrax.com <solsen@ballottrax.com>; rick.becerra@bluecrestinc.com <rick.becerra@bluecrestinc.com>; carl.amacker@bluecrestinc.com <carl.amacker@bluecrestinc.com>; george@bpro.com <george@bpro.com>; brandon@bpro.com <brandon@bpro.com>; kevin@bpro.com <kevin@bpro.com>; joe@bpro.com <joe@bpro.com>; jvarner@cantongroup.com <jvarner@cantongroup.com>; apernasilice@cantongroup.com <apernasilice@cantongroup.com>; julie@chavesconsulting.com <julie@chavesconsulting.com>; richard@chavesconsulting.com <richard@chavesconsulting.com>; 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Optional Attendees: Brandon Balthrop <bbalthrop@lafayettegroup.com>; Tom Ferguson <tferguson@gocivix.com>; Keith Ingram <KIngram@sos.texas.gov>; Condos, Jim <Jim.Condos@vermont.gov>; Cavazos, Noe <Noe.Cavazos@cisa.dhs.gov>; Richeson, Jonathan <Jonathan.Richeson@cisa.dhs.gov>; Adams-Simmons, Barrett <Amanda.Adams-Simmons@cisa.dhs.gov>; Tim Macking <tim.macking@scytll.com>; jesse.zoldak@clearballot.com <jesse.zoldak@clearballot.com>; solsen@i3logix.com <solsen@i3logix.com>; Bernie Hirsch <bdh@hirschinc.com>; Edwin Smith <edwin.smith@smartmatic.us>; David Tackett <dtackett@wvsos.com>; davis.schirmer@clearballot.com <davis.schirmer@clearballot.com>; Watters, Ronald <Ronald.Watters@cisa.dhs.gov>; Jones, Chass <Chass.Jones@cisa.dhs.gov>; Katy Williams <katy.williams@scytll.com>; Winn, Michael (CCO) <Michael.Winn@cco.hctx.net>; Mecum, Seth <Seth.Mecum@cisa.dhs.gov>; Teska, David <David.Teska@cisa.dhs.gov>;

WA-SOS-20-2118-A-000007

Judge, Christopher <Christopher.Judge@cisa.dhs.gov>; Hollingsead, Greg <Greg.Hollingsead@cisa.dhs.gov>;
jsheiw@douglascountyks.org <jsheiw@douglascountyks.org>

Attachment(s): "image001.png"

Election Partners,

The Cybersecurity and Infrastructure Security Agency (CISA) Election Security Initiative will host recurring Election Infrastructure Security (EIS) Election Partner Update calls leading up to the November General Election to provide updates and to maintain open lines of communication with our election partners. The details are as follows:

SUBJECT: CISA/EIS Election Partner Update Calls

PURPOSE: To provide updates and maintain lines of communication with our election partners.

DATE: Friday 9/25

TIME: 2:30 p.m. – 3:30 p.m. EDT (Extent of collective updates and questions will dictate duration of call up to 1 hour.)

DIAL-IN: 800-926-5230

AGENDA: Standing updates on each call from CISA/ESI, EAC, ODNI, FBI, I&A Intel, EI-ISAC, and others as requested. Agenda will be attached prior to the meeting.

NOTES: All lines will be placed on mute. Press 66 to UNMUTE and press 63 to MUTE.

Please feel free to share this invitation among your election related networks and colleagues. If you have any questions, please contact us at EISSA@cisa.dhs.gov.

Respectfully,

EI SSA

EI SSA/ESI, National Risk Management Center
Cybersecurity and Infrastructure Security Agency

Email: EISSA@CISA.DHS.GOV





1. How do I register to vote or find out if I'm currently registered?

In all states except North Dakota, you need to be registered to vote in order to participate in an upcoming election. Eligibility requirements vary by state, but generally you must be a U.S. citizen who will be at least 18 years old by Election Day and must meet state residency requirements. You can register to vote in person, by mail, and in many states online. If you are not already registered or you need to update your registration, make sure to do so by your state's [deadline](#). [Several states](#) also allow voters to register on Election Day.

If you are already registered to vote, please check to make sure your voter registration information is current and accurate, especially if you have recently moved or changed your name.

For information on the voter registration process in each state, and to find out if you are already registered visit canivote.org.

2. What impact will COVID-19 have on in-person voting?

State and local election officials are working hard to ensure the health and safety of voters and poll workers during in-person voting. While specific measures vary by jurisdiction, common precautions include providing poll workers with face coverings and gloves; regularly wiping down surfaces with disinfectant; offering hand sanitizer to voters; providing single use styluses or pens; and putting up signs and/or marking the floor to indicate proper social distancing.

Voting locations may change or may be combined into larger facilities in an effort to accommodate social distancing, and reduce lines. In a number of states, professional sports arenas and stadiums, convention centers and other large facilities have volunteered to serve as voting locations for the general election. Of course, there may still be lines during early voting and on Election Day, because of new social distancing and safety precautions. We urge voters to be patient and confident that if you are in line at the close of polls on Election Day, you will still be able to cast a ballot. Verify your polling location by visiting canivote.org before you go vote in case your site has changed.

3. What is early voting and how do I vote early?

Many states allow people to vote in-person, prior to Election Day without having to provide a reason or excuse. In some states early voting may involve casting a ballot at the local election office, while in others you may be voting at a library, community center, or other location in a manner similar to voting at the polling place on Election Day.

For information on how to vote early in each state, visit canivote.org.

For an overview of early voting timeframes/deadlines in each state, see the NASS [early and absentee voting dates page](#).

For an overview of state laws on early voting, see the National Conference of State Legislatures' [early voting page](#).

4. What is the difference between absentee voting and mail voting?

Absentee voting provides an alternative to voting at the polling place on Election Day. Generally, there are two forms of absentee voting: absentee voting by mail and absentee voting in-person.

Some states require voters to designate a specific reason for voting absentee. Examples include a planned absence from the county on Election Day, an illness or disability, caregiver responsibilities, etc. Several states that require an excuse to vote absentee have announced concerns about COVID-19 will be considered a valid reason to vote absentee by mail in the upcoming general election.

Other states allow people to vote absentee (either by-mail or in-person) without having to provide an excuse.

In most states, a voter must submit a request in order to receive a ballot by mail. However, some states are sending mail ballot request forms to all voters for the 2020 general election due to COVID-19.

There are several states that automatically mail a ballot to all registered voters, including some that are doing so for the 2020 general election due to COVID-19.

For an overview of state absentee/mail voting dates and deadlines, see the NASS [early and absentee voting dates page](#).

For an overview of state laws on absentee/mail voting, see the [National Conference of State Legislatures voting outside the polling place page](#).

5. How do I vote by mail?

As noted in FAQ #4, most states require voters to request a mail ballot, while several states automatically send a ballot to all registered voters. Specific instructions will be included with the mail ballot. Each state has specific procedures for voting and returning mail ballots, along with verification methods before processing these ballots. Most states require mail ballots to be returned by the close of polls on Election Day, either by mail or in-person at a ballot drop-box, local election office or other designated location. However, some states allow additional time for mail absentee ballots to arrive, provided the ballot is postmarked by Election Day.

Voters should request and return their mail ballot **as soon as possible** in order to ensure it arrives in time to be counted.

It is very important to follow the instructions for how to fill out the ballot and include any signature or identification requirements. If you make a mistake and need to request a new ballot, you will need to contact your local election office immediately to ensure you are able to receive and return the ballot in time for the ballot to be counted.

Voters in many states and localities can track the status of their mail ballot through an online tracking system. If your jurisdiction does not have a ballot tracking system, you should contact your local election official to find out if your ballot was received and what to do if it was not.

For information on how to vote by mail in each state visit canivote.org.

For information on U.S. Postal Service handling of mail ballots see the [USPS election mail page](#).

6. How do states process mail ballots?

Mail ballot processing methods and timelines vary by state, according to state laws. Some states allow election officials to begin some form of processing mail ballots prior to Election Day. This may include signature verification procedures, opening the envelopes to prepare the ballots for counting, or scanning the ballots, etc. One thing that is constant across the states is the results of mail ballot counting will not be released until after the polls close on Election Day.

For an overview of state laws on mail ballot processing see the National Conference of State Legislatures' [voting outside the polling place page](#).

For information on when states begin processing absentee ballots, see the National Conference of State Legislatures' [page on when absentee/mail ballot processing and counting can begin](#).

7. How are election results compiled and when will they be available for the November 3, 2020 election?

Generally, local jurisdictions in each state report unofficial/preliminary election results to state election officials after the polls close on Election Day. Many states make these early unofficial results available through an Election Night Reporting (ENR) website. However, while those results can be a reliable indicator of the winner in a particular race, it is important to remember those results are unofficial and often incomplete.

While most states will have unofficial reporting on election night for voters who cast a ballot in-person on Election Day, it is also important to remember states have different mail ballot deadlines; some require all ballots to be received by Election Day, others require they be postmarked by Election Day and arrive within a specified timeframe after the election. With the expected increase in mail voting for the November 3, 2020 election coupled with the number of states that cannot begin processing mail ballots until Election Day, it will likely take election officials longer than usual to process and count those ballots. This is a normal process and not indicative of malicious activity.

Election results are not official until they are canvassed (reviewed by state and local election officials) and certified by the relevant election officials. Generally, each local jurisdiction canvasses and certifies results from that jurisdiction on or by a certain date following the election. For statewide and federal races, the certified results from all of the local jurisdictions are then canvassed and certified by state officials (often a State Canvassing Board) on or by a certain date. This process is standard and occurs for every election.

For more information on the canvassing and certification process, see the NASS resource on [state election canvassing timeframes](#).

8. How do I find voting information I can trust?

Voters often receive election information through a variety of non-official, third-party sources, including websites, social media, emails, text messages, automated calls and mailings. Whether intentional or unintentional, sometimes information may be incorrect, incomplete or misleading. Voters should instead rely on their local and state election officials as their trusted sources for election information. You can easily go to canivote.org, which links directly to the official websites for state election officials and includes a roster of local election officials across the country. Also, follow the verified social media pages of your state and local election officials.

The COVID-19 pandemic has triggered some [changes to election processes](#) in certain states and jurisdictions. The unpredictable nature of the pandemic environment makes it all the more critical to go straight to the official source for your election information. Your state and local election officials are the most reliable source for timely and accurate election information.

9. What is #TrustedInfo2020?

In November 2019, NASS launched #TrustedInfo2020—an education effort to promote election officials as the trusted sources of election information. By driving voters directly to election officials' websites and social media pages, we ensure voters are getting accurate and up-to-date election information and cut down on the misinformation and disinformation that can surround elections. #TrustedInfo2020 aims to highlight state and local election officials as the credible, verified sources for election information.

The nation's Secretaries of State, 40 of whom serve as their state's chief election official, along with other state and local election officials are continuously working to inform Americans about the elections process, including voter registration, state election laws, voting and much more.

10. How are election officials protecting the integrity of the election and how can I help?

State and local election officials take seriously their role as guardians of democracy. Although election laws and practices vary greatly by state, one constant across the U.S. is that every voter has the right to cast their vote in each election for which they are eligible. Individuals are prohibited by law from casting more than one ballot in any election, no matter what method of voting the voter utilizes.

States and localities have also implemented a variety of measures to protect elections from cyber and physical security threats as well as other threats to their integrity. Examples include implementing cybersecurity measures such as multi-factor authentication, upgrading election equipment and software, establishing chain of custody protocols for ballot security, implementing signature verification, and instituting physical security measures such as surveillance of storage locations and ballot drop boxes.

Election officials regularly share information about the measures they are implementing to protect elections. Further, election officials provide transparency through practices such as allowing the public to observe pre-election testing of election technology and the canvass of election results. Visit the websites of your state and local election officials to learn more about security protocols specific to your location and its election processes and about opportunities for public observation.

Individual voters can help protect the integrity of elections by getting their election information from state and local election officials and carefully following instructions for registering to vote and voting. The most important thing voters can do is participate in the election. If you'd like to do more, [apply to serve as a poll worker](#) or temporary election worker – our elections rely on this temporary work force to run smoothly.

11. What does a poll worker do and how do I volunteer?

Poll workers help carry out the election by performing a variety of duties at the polling place. This may include setting up the polling place, welcoming and checking in voters, issuing ballots, monitoring voting equipment, closing the polling place and processing initial results to be sent to the local elections office.

In states where mail balloting is prevalent, temporary election workers are often hired to help to process mail ballots.

Poll and election workers are generally hired at the local level. Eligibility requirements, compensation, training requirements, and specific duties vary among jurisdictions.

For information on becoming a poll worker in your state visit canivote.org.

Subject: NASS Weekly Elections Committee Call - 9/24/2020

Location: GoToMeeting

Start: Thursday, September 24, 2020 2:30 PM EDT

End: Thursday, September 24, 2020 3:30 PM EDT

Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Required Attendees: Reynolds, Leslie <reynolds@sso.org>; Milhofer, John <jmilhofer@sso.org>; Maria Benson <mbenson@sso.org>; Lindsey Forson <lforson@sso.org>

NASS Weekly Elections Committee Call - 9/24/2020

Thu, Sep 24, 2020 2:30 PM - 3:30 PM (EDT)

Please join my meeting from your computer, tablet or smartphone.

NASS Elections Committee Conference Call

September 17, 2020

Call began at 2:30PM ET

NASS Executive Director Leslie Reynolds announced the call was not for the press and if any press members were on the call they must log off. Sec. LaRose welcomed members of the NASS Elections Committee and NASED and Sec. Toulouse Oliver welcomed the US Postmaster General (PMG). She provided background on the call she, Sec. Benson, Sec. LaRose and Sec. Ashcroft had with the PMG on August 27th and introduced the PMG to speak. The PMG also announced colleagues joining him: David Williams, Chief Logistics & Processing Operations Officer; Tom Marshall, General Counsel; and Justin Glass, Director of Election Mail Operations.

Postmaster Dejoy noted the following in his remarks:

- Election mail is USPS' number one priority and they has the capacity to handle whatever volume of election mail they receive.
- The purpose of the recent postcard mailing was to educate and inform voters on voting by mail without getting into state specific rules and regulations. USPS originally intended to give election officials an opportunity to review the mailing before it went out, but ultimately it was sent out the same day it was sent to NASS for review. USPS realizes that it was not enough of a heads up and will do better in the future.
- As a result of the mailing almost 750,000 people have visited USPS.com for voting information, with 250,000 visitors also going to usa.gov, which connects them to election offices.

Mr. Glass noted the following in his remarks:

- USPS operational readiness is focused on ensuring election mail is handled in compliance with establishes processes.
- Operational efforts for election mail include emphasizing communication with USPS employees to ensure they have the necessary knowledge and tools for processing and delivering election mail. USPS is partnering with union leaders on these efforts and have expanded the election mail task force to include union leaders and management associations. Local task force teams have "ballot ambassadors" that share feedback from employees on any issues related to ballots.
- Standard tools to track election mail include election mail logs, clean sweep searches, checklists, daily all clear processes, and intelligent barcodes. Additional efforts include weekly service reviews to identify mail flow issues, weekly election mail webinars with USPS leaders, and compliance observation by the postal inspection service.
- USPS recognizes that many states require a postmark for ballots. Traditionally a postmark or cancellation is for the purpose of rendering the postage unusable in the future. The process is not designed to cancel every mail piece, and certain types of business mail and permit mailings can bypass the postmark process. However, USPS' policy has been to postmark or cancel all ballots, regardless of origin, destination, or method of post payment. USPS will continue to train employees to monitor the flow of ballots and ensure they receive a postmark.

- USPS convened a postmark team to analyze data and feedback from election officials and developed action plans to update standards, work processes, and communications around the postmark process. This includes training field managers and creating new ballot monitor positions whose sole focus is ensuring ballots are postmarked or cancelled correctly. Feedback from ballot monitors is used to help improve the postmark process and educate employees. Ballot monitors will be in place through Election Day.
- Starting October 1st USPS will make additional resources available for processing and delivery teams to expedite election mail. This includes expanded run time on processing machines; approval of additional overtime as necessary to cover the expanded delivery window; and if needed, extra trips to deliver election mail and additional collections.
- The expanded window is similar to peak holiday season processing. In comparing election mail to peak season processing in terms of capacity, if all of the approximately 160 million registered voters in the U.S. were to vote by mail, and each received and returned both an application and a ballot, that would be 4 mail pieces for each voter, totaling 640 million pieces for all voters combined, which would amount to around 25% of what is handled during peak week.
- USPS will continue to provide methods to expedite ballots close to Election Day, including priority mail express, delivery on Sunday, special delivery, and other means. However, USPS can't guarantee that all voters who receive a ballot late in the process will be able to have the ballot returned in time. It's important to help encourage people to request and return the ballot early.

Secretary Padilla asked if USPS would pledge to provide election officials with an advance copy of future communications to voters so they can review and provide input to help minimize any misinformation. Mr. Marshall indicated that USPS could commit to that.

Secretary Padilla noted that mail processing facilities are dealing with a high volume of parcels during the pandemic, and asked if those facilities will be prepared for the high volume of election mail in coming weeks, including ballots, voter information guides, political mail, etc. Mr. Williams noted that while the package volume has increased, USPS is very focused on processing letter and flat mail, including ensuring that staffing operations meet the requirements of mail in the system.

Secretary Griswold asked Postmaster DeJoy how he planned to address misinformation from the Administration about vote by mail, and increase confidence in USPS's ability to deliver mail ballots. Postmaster DeJoy noted that he has disagreed publicly with the President on those issues, and added that he supports the mail voting process.

Secretary Hobbs noted that Arizona does not have a postmark deadline since ballots are due on Election Day, and asked if USPS efforts to ensure ballots are postmarked will impact the processing of those that don't require it. Mr. Glass noted that postmarking of all ballots is a national policy but said those efforts won't have any impact the processing speed or delivery of ballots

Secretary Merrill (Alabama) thanked Postmaster DeJoy for USPS' efforts to educate the public about voting by mail through the recent postcard mailing.

Secretary Ardoin noted that a recent audit report found that some USPS policies on election mail were not being followed, and asked how that was being addressed. Mr. Glass indicated

that the issues identified in the report involved employees not using the proper standardized tools. He noted that USPS reissued tools and instructions and provided training and other measures to address the issue and added that the OIG has since closed out those areas of the report based on the measures taken.

Secretary Ardoyn noted that during Louisiana's primary election, there was a situation where numerous ballot requests were held by postal officials due to improper postage, and were released only a few days before the election. He asked if USPS will continue to hold mail in those situations. USPS responded that the policy has been and continues to be that election mail is delivered regardless of a lack of postage, and the USPS follows up with the appropriate election officials after the fact for the postage due. He added that if there appears to be a situation where election mail is being held, officials should notify USPS and it will be corrected immediately.

Secretary Hargett expressed concern about the timing and wording of the recent postcard mailing. He also commended the efforts of postal officials in Tennessee.

Secretary Wyman asked how political mail impacts the anticipated volume of election mail, and whether the fluorescent barcode on the bottom of return mail can be used similar to a postmark for jurisdictions that have the necessary reader. She also asked how USPS is working to deliver mail to people displaced by the recent fires and hurricanes.

Mr. Glass noted that even when factoring in political mail to the hypothetical scenario he provided earlier, the average processing window would still be much less than during peak. He noted that USPS is focused on getting mail through the initial cancellation process to maximize the number of pieces that get the fluorescent ID tag. He added that USPS provides updated information on its website for individuals impacted by the recent natural disaster.

Secretary Oliver asked if it was possible for USPS to provide members with copies of guidance or procedures pertaining to the topics discussed on the call. She added that this would help members better understand the process and follow up with any questions. Postmaster DeJoy indicated that they are currently working to finalize a document to distribute that includes that type of information, and should be able to do so in about a week.

Secretary Gorbea noted that her office has a good relationship with postal officials in Rhode Island, and asked if there was someone at USPS headquarters who state election offices could contact directly to discuss any relevant issues. Mr. Williams indicated that state election officials can reach out to their local election coordinators, and those coordinators will relay any issues or concerns to headquarters.

Secretary Griswold asked Postmaster DeJoy about recent comments by the Attorney General regarding the potential for postal workers to be bribed. Postmaster DeJoy indicated that he has full confidence that postal employees will fulfill their obligations during the elections process.

Secretary Way noted that during New Jersey's primary election there was a situation where numerous postmarked ballots arrived at county offices a day after the primary. She asked for clarification on the roles of election ambassadors and election monitors, and whether USPS could provide copies of any standards that they rely on in carrying out those roles. Mr. Glass noted that there is not a full standard to measure against, but there is a general standard that no

ballot should get through the processing facility without a postmark, and the ballot monitors search for ballots to ensure they receive a postmark.

Secretary Ardoin asked for input on how to address concerns from citizens regarding the political leanings of postal union employees. Postmaster DeJoy indicated that he has full faith in postal workers, and is confident in the intentions of workers and management to make sure all ballots get processed. Mr. Marshall noted that USPS' employees take pride in their role as part of the election process, and added that the USPS expanded its task force to include union leadership and management associations.

The call ended at 3:30 PM ET.

NASS Summary: HR 4990, the Election Technology Research Act of ~~2019~~ 2020

- Passed the House on 9/16/20

Most notable in this legislation for STATE ELECTION OFFICIALS: This legislation expands the definition of voting system (found in HAVA) to now include “any other paper or electronic technologies or processes for collecting, storing, or transmitting personal information of voters for use in the administration of elections for Federal office including, electronic poll books; voter registration databases and systems, including online interfaces; systems for carrying out post-election auditing; and chain-of-custody procedures.

Section 2: National Institute of Standards and Technology (NIST) – Research, Center for Excellence in Election Systems

The Director of NIST, in collaboration with the National Science Foundation (NSF) must carry out voting systems research that includes: cybersecurity of components, end-to-end verifiability, internet-enable voting, accessibility and usability, voter privacy and data protection, election audits, interoperability of systems, mail-ballot tracking, reliability of voter authentication, and other areas deemed appropriate by Director.

NIST Director must make an award to a college/university or non-profit(s) to establish a Center for Excellence in Election Systems (must ensure that collaboration includes private sector and state and local officials.) The Center will conduct measurement research and statistical analysis to inform development of standards for technologies and processes for elections, test and evaluate security/usability and accessibility of voting systems including the accessibility of poll book data by voters, research testing methods for certification of voting systems, educate students in fields of science, tech, engineering and math fields to conduct measurement science and standards relevant to these systems, foster collaboration between stakeholders. Applicants must apply to Director of NIST. Each selected Center is effective for 5 years and is renewable per discretion of Director. \$12 million dollars authorized for this program from ~~2020-2024~~ 2021-2025.

Section 3: National Science Foundation (NSF) – Research Grants and Elections Systems Research Center

The Director of the NSF, in collaboration with NIST and others, must award basic research grants to increase understanding of cyber and other threats to voting systems and to inform development of technologies, processes and policies for elections including: cybersecurity of components, end-to-end verifiability, internet-enable voting, accessibility and usability, voter privacy and data protection, election audits, interoperability of systems, mail-ballot tracking, reliability of voter authentication, and other areas deemed appropriate by Director.

NSF Director, in consultation with NIST and DHS, must award grants to colleges/universities or non-profit(s) to establish at least ONE multi-disciplinary center for elections systems research and education. Entity(s) receiving an award MAY include colleges/universities, non-profits, private sector and state and locals. The Center(s) must conduct basic research on cyber and

other threats to elections, research on development of technologies/processes and policies for elections, work with students to conduct research on election systems, design criteria to address organizational management and info tech needs of elections community and foster collaboration among stakeholders. Applicants must apply to Director of NSF. Each selected Center will be authorized for 5 years, renewable at the discretion of the Director. \$10 million is authorized for this program from ~~2020—2024~~, 2021-2025.

Section 4: NIST Work on Common Data Format, Election Systems Certifications, Assistance on Implementing VVSG

NIST must develop and make public common data format specs for auditing, voter registration and other elements of voting systems and provide these specs to TGDC.

NIST must also work in collaboration with the EAC to update voting system certification process so states and locals can carry out updates and modernize.

NIST must provide state and locals with technical assistance on implementing cybersecurity and privacy standards, risk assessments, risk-limiting audits and technologies which are included in the VVSG.

NIST in collaboration with DHS and EAC must also conduct outreach to state and locals re best practices for implementing VVSG.

Section 5: GAO

Within 18 months of enactment, GAO must submit a report to Congress on whether NIST actions re VVSG have resulted in market-ready standardized voting equipment and software, their efforts to monitor and review the performance of test labs accredited by EAC, and whether the annual list of suggestions required by NIST to be submitted to EAC for research issues for grants and pilot programs per HAVA has improved voting technology.

From: Reynolds, Leslie <reynolds@sso.org>

Sent: Monday, September 28, 2020 9:23 AM EDT

To: Reynolds, Leslie <reynolds@sso.org>

CC: Dodd, Stacy <sdodd@sso.org>; Milhofer, John <jmilhofer@sso.org>; Maria Benson <mbenson@sso.org>; Lindsey Forson <lforson@sso.org>

Subject: NASS Elections Committee: USPS Guidance to Postal Facilities re Election Mail Handling, International Election Observers Webinar with US State Dept on Thursday, Oct 1 at 12PM ET, DHS Media TTX, 10/01 Call Reminder

Attachment(s): "2020-09-23 Additional Resources Policy Letter - FINAL - v.2.docx", "Operational Overview Document - Short Form - CLEAN.docx", "Clarifying Operational Instructions.pdf", "Mandatory stand-up talk -- Operational Instructions_final.pdf", "Invitation to Webinar on OSCE Election Observation Mission on October 1.pdf", "NASS Weekly Elections Committee Call - 10/1/2020 "

NASS Elections Committee and Communications Directors:

I'm sure this is the first of several Election Committee emails this week!

USPS Guidance to Postal Facilities Regarding Election Mail beginning October 1 and PSAs

On our recent call with the US Postmaster General DeJoy, he committed to sharing the guidance being sent to postal facilities regarding election mail. **Those documents are attached.**

NASS and NASED staff also held a call with USPS leadership on Friday, where they shared some **potential public service announcements** (radio, posters, electronic message for post office lobbies.) We made some initial comments about the need to include the date of the election and the election mail logo. The USPS will discuss and resend these PSAs which we will share with you as soon as we have them.

Webinar on Thursday, October 1, 12PM – 1:30PM ET with US State Department, EAC and OSCE Regarding Upcoming Election Observation Mission – RSVP by COB Tomorrow

From the US State Department:

As in previous general elections, the United States has invited international election observers from the Organization for Security and Cooperation in Europe (OSCE) to observe the U.S. elections on November 3. This webinar will offer an opportunity for OSCE officials to discuss their planned election observation activities in the United States and for U.S. officials to ask questions and share information. U.S. Ambassador to the OSCE James Gilmore III (formerly the 68th Governor of Virginia) will provide brief remarks, along with officials from the OSCE and the Election Assistance Commission.

Thursday, October 1

12:00-1:30 PM EDT / 18:00-19:30 CEST

RSVP to Vanessa Arness, arnessvl@state.gov, by close of business on September 29

In your RSVP, please include your name, title, and organization. Please note that this event is not open to the general public or press. Upon receiving your RSVP, we will share a link and call-in details for the webinar.

NASS to Participate in DHS/CISA Media TTX Tomorrow

As you learned on the call with DHS on Friday, NASS staff will participate in a Media TTX tomorrow with the Intelligence Community (IC), EAC. We will work to help the national media outlets understand the elections process in the different states, promote #TrustedInfo2020, etc.

Reminder – NASS Elections Committee Call on Thursday, Oct 1 at 2:30PM ET

Calendar invite attached.

Thanks,
Leslie

Leslie D. Reynolds
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The November 3, 2020, General Election is fast approaching. While normal First-Class and Marketing Mail volumes are down considerably, the volume of Election Mail will be at an all-time high this season. COVID-19 has changed the way millions of people will vote this year, and many are turning to the United States Postal Service to deliver their ballots. Recognizing our important role in the democratic process, the Postmaster General has reiterated that our number one priority is the proper handling and timely delivery of all Election Mail, especially ballots.

Effective October 1, 2020, additional resources are being made available for District Managers, Postmasters, Division Directors, and Plant Managers to utilize, as they determine, to support the timely and expeditious handling of the increased volume of Election Mail, which is defined by the Postal Service as any item mailed to or from authorized election officials that enables citizens to participate in the voting process, such as ballots, voter registration cards, ballot applications, and polling place notifications. District Managers, Postmasters, Division Directors, and Plant Managers are authorized and instructed to use these additional resources to ensure that all Election Mail is prioritized and delivered on time. These resources are in addition to the existing processes and procedures for Election Mail.

These resources include, but are not limited to:

1. Processing

As previously provided in the Clarifying Operational Instructions distributed on September 21, 2020, Election Mail entered as Marketing Mail should be advanced ahead of all other Marketing Mail and processed expeditiously to the extent feasible so that it is generally delivered in line with First-Class Mail delivery standards. Processing windows on letter and flat sorting equipment should be expanded as necessary to ensure that all Election Mail received prior to the First-Class Mail Critical Entry Time is processed that same day. Further, to the extent possible, Election Mail received after the Critical Entry Time should be processed and advanced as if it arrived prior to the Critical Entry Time, unless doing so would disrupt on-time service for Election Mail received prior to the Critical Entry Time.

Other additional processing resources are also authorized and instructed to be used to ensure that Election Mail stays current and moving through the Postal Service's network. This includes, but is not limited to, early cancellations the week before Election Day to ensure all collected ballots are processed timely.

2. Transportation

Extra transportation resources are authorized and instructed to be used to ensure that Election Mail reaches its intended destination in a timely manner. This includes, but is not limited to, extra trips from all points of processing and delivery (e.g., retail units and plants), as necessary to connect Election Mail to its intended destination or the next stage in Postal Service processing.

3. Delivery/Collections

Extra delivery and collection trips are authorized and instructed to be used to ensure, to the best of our ability, that completed ballots entered on Election Day reach the appropriate election official by the state's designated deadline on Election Day. This

includes, but is not limited to, early collections the week before Election Day to ensure all collected ballots are processed timely, and delivery of ballots found in collections on Election Day to election boards within states requiring ballots be returned by a designated time on Election Day.

4. Overtime

Overtime is authorized and instructed to be used to support these additional resources and the completion of the additional work, as needed.

In addition, to further support the timely delivery of Election Mail, and consistent with our practices in past election cycles, the use of extraordinary measures beyond our normal course of operations is authorized and expected to be executed by local management between October 26 and November 24, to accelerate the delivery of ballots, when the Postal Service is able to identify the mailpiece as a ballot.

These extraordinary measures include, but are not limited to, expedited handling, extra deliveries, and special pickups as used in past elections, to connect blank ballots entered by election officials to voters or completed ballots returned by voters entered close to or on Election Day to their intended destination (e.g., Priority Mail Express, Sunday deliveries, special deliveries, running collected ballots to Boards of Elections on Election Day, etc.).

We will continue to communicate closely with election officials to encourage them to send ballots earlier. We have also educated voters across the nation to request their ballots early (if they are required to request a ballot) and to return their ballots early, if they plan on using the mail for one or both legs of the journey.

Despite our best efforts to educate and communicate, however, we know that there will be entries of ballots to and from voters that will require us to take the extra steps set forth herein to ensure timely delivery. The additional resources available beginning October 1, 2020, and our robust practices and procedures that we employ every election cycle as described above, will help ensure that we are able to do everything in our power to meet our customers' expectations that mail will be delivered in a timely manner when our customers use the mail to facilitate or participate in the electoral process.

Thank you for your hard work and dedication in delivering America's Election Mail.

September 21, 2020

OFFICERS, PCES, AND PAY BAND MANAGERS

SUBJECT: Clarifying Operational Instructions

The number one priority for Postmaster General DeJoy and the Postal Service between now and Election Day is the secure and on-time delivery of the nation's election mail. Effective October 1, 2020, the Postal Service will make additional resources available in all areas of operations, including collection, processing, delivery, and transportation, to satisfy increased demand and unforeseen circumstances. These additional resources will include, as needed, additional staffing, additional transportation, and expanded mail processing windows and delivery trips, among others. Further guidance on use of additional resources will be provided separately.

To address any misinformation and clear up any confusion about the status of the Postal Service's practices concerning Overtime, Hiring, Retail Hours, Collection Boxes, Late and Extra Trips, Mail Processing, and Election Mail, these Clarifying Operational Instructions detail practices as they currently stand related to those topics.

As you may also be aware, a federal district court recently issued an order imposing certain requirements for the handling of mail. These Instructions are also intended to provide guidance to assist in carrying out the specific directives required by that order, as they relate to current operational practices.

The approach to the matters outlined in these Instructions will remain in effect until further notice and supersede any previous guidance provided on these specific topics that could be seen as conflicting with these Instructions, whether from Headquarters or the field.

1. Overtime

Postal Service Headquarters has not imposed, and will not impose, any nationwide changes that ban or newly restrict overtime prior to Election Day. Overtime use has not been banned, nor have any caps been placed on overtime hours. Front-line supervisors and managers will continue to schedule employees' work hours and oversee employee overtime, including planning for any needed prescheduled overtime, directing unscheduled overtime, and approving employee requests for overtime work based on the workload. Supervisors will continue to set schedules with the goal of matching the expected earned work hours with appropriate staffing. Management will continue to monitor the use of work hours and overtime so that it can identify and address problems that may be the cause of work not being performed within expected work hours or managed inefficiently.

The Postal Service's consistent practice in the past is to use justified and approved overtime hours where needed to deliver the mail on time, and that practice will continue. Overtime has been, and will continue to be, utilized as necessary to fulfill our mission. As will be discussed in more detail in the forthcoming guidance regarding the use of additional resources starting on October 1, use of overtime necessary to expeditiously move Election Mail should be approved.

2. Hiring

Postal Service Headquarters has not implemented a total hiring freeze. Because of the realignment of the Postal Service's reporting structure announced on August 7, 2020, Postal Service Headquarters has suspended hiring for EAS positions to ensure proper placement of any current employees that may be impacted by the restructuring. Although hiring of EAS positions has been suspended, there is a process in place to request exceptions to fill critical EAS positions.

The suspension of EAS hiring does not impact the filling of craft positions. Craft positions will continue to be filled pursuant to the applicable collective bargaining agreement. The Postal Service has hired, and will continue to hire, new employees to address staffing shortages caused by the COVID-19 pandemic and otherwise.

3. Retail Hours

Postal Service Headquarters has not directed or authorized a reduction in retail window hours. Evaluating retail hours is part of an annual process to optimize the Postal Service retail network. The Postal Service was in the process of gathering data to make decisions regarding retail hours based on customer demand. Given both congressional and public concern, the Postal Service will not be adjusting retail hours prior to the November 2020 elections.

There may be unforeseen circumstances beyond the Postal Service's control that necessitate the temporary change of retail hours or the temporary closure of a retail facility such as natural disasters, or conditions that reduce employee availability or create an unsafe environment for employees like the COVID-19 pandemic or civil unrest. However, local managers are not permitted to reduce retail hours without review and approval by both Area and Headquarters management.

There are Village Post Offices (VPO) and Contract Postal Units (CPU) that on occasion decide to terminate their contract or close due to uncontrollable circumstances. If the Postal Service is unable to negotiate an extension of services with these non-postal entities, there is no choice but to honor the contract termination. The Postal Service is currently in communication with those VPOs and CPUs that have indicated they intend to terminate their services prior to the November 2020 elections to determine whether an arrangement can be made to extend their services until after the elections.

4. Collection Boxes

Pursuant to the Postmaster General's August 18, 2020 directive, the Postal Service has suspended the removal of any additional collection boxes until after the 2020 elections. The Postal Service regularly reviews the need for, and location of, collection boxes in accordance with the Postal Service Postal Operations Manual. The purpose of these reviews is to ensure that mail collection within areas served by letter carriers is accomplished in a cost-efficient manner, while still meeting customers' needs. Over the last seven years, the Postal Service has removed an average of 3,100 collection boxes per year. This year, approximately 1,500 collection boxes have been removed.

Although the Postmaster General has suspended the removal of collection boxes between now and the November 2020 elections, it is important to note that there are instances where removal of a collection box is necessary. In the event of extreme weather conditions, collection boxes may be removed or covered to prevent damage. During events that involve national security, collection boxes along the transportation route may be temporarily removed for public safety. Similarly, localized events such as wildfires or civil unrest may necessitate a temporary removal of a collection box. These removals are temporary and collection boxes must be returned as soon as possible.

Between now and the November 2020 elections, it is critical that, if any collection boxes are damaged (for example, by hurricane or a car accident) and taken out of service, that they be replaced as soon as possible. If a collection box is in an area that is restricted for security or safety reasons, any request to cover or remove a collection box must be raised through appropriate communication channels. Communication between local office and District/Area/Headquarters channels is critical. Postmaster/Station Managers must notify their District Manager when there is an issue with a collection box. District Managers must notify Area Retail & Delivery Operations Vice Presidents, who must notify the Vice President of Delivery Operations to ensure all leadership is aware of the issue and can oversee the removal and subsequent replacement of the collection box.

Postal Service Headquarters is not planning to reinstall collection boxes that were removed as part of its routine review prior to the Postmaster General's statement concerning operational commitments issued on August 18, 2020. To be clear however, no additional collection boxes should be removed until after the election, other than on a temporary basis, and only for the reasons described herein.

5. Late and Extra Trips

Adherence to transportation schedules has long been a priority of the Postal Service. Because noncompliance with transportation schedules was a chronic problem that was causing late deliveries and unnecessary costs, there has been an organizational focus on adhering to the transportation schedules over the last two years.

After the Postmaster General took office, he reemphasized the need to ensure that the Postal Service's trucks run on time and on schedule, with the goal of mitigating unnecessary late and extra trips. This effort does not mean that mail should be left behind, (it should not), but rather that processing schedules should align with transportation schedules. Moreover, the Postmaster General has not banned the use of late or extra trips; when operationally required, late or extra trips are permitted.

Consistent with the court order referenced above, transportation, in the form of late or extra trips that are reasonably necessary to complete timely mail delivery, is not to be unreasonably restricted or prohibited. Managers are authorized to use their best business judgment to meet our service commitments.

6. Mail Processing

Pursuant to the Postmaster General's August 18, 2020 directive, and consistent with the order of the federal district court, no mail processing facilities will be closed or consolidated until after the November 2020 elections. Moreover, the Postal Service has suspended all removal of letter and flat sorting machines until after the November 2020 elections. During Fiscal Year 2020, approximately 700 letter and flat sorting machines were disconnected and/or removed. These reductions were made pursuant to volume modeling and equipment reduction targets for various mail processing equipment sent to the Area Vice Presidents for review and implementation on May 15, 2020, consistent with longstanding Postal Service practice. The reduction targets, which were based on significant volume reductions in letter and flats mail volume, and with the further decline due to COVID-19, were broad targets for reduction, with the final decisions regarding machine removal being determined after discussions between local management and Headquarters. Postal Service Headquarters has determined not to make any further removal of equipment until after the November 2020 elections.

Because removed machines are generally disassembled for their usable parts, with such parts being removed to maintain or enhance other machines, there is no current plan to return removed machines to service. Over the past month, however, a limited number of machines that were disconnected, but not dismantled and removed, have been put back into service. We have more than sufficient capacity to process current and anticipated mail volumes with the existing machine fleet.

As of September 18, 2020, Headquarters has approved all requests to reconnect machines directed to the Headquarters Director of Processing Operations and has provided Regional Vice Presidents with authority to reconnect machines where doing so is necessary. Specifically, if it is determined that it is necessary to add processing capacity to fulfill our service commitments with regard to Election Mail, available processing equipment will be returned to service. Any requests to reconnect a sorting machine reduced since June 2020, because it is believed that the machine is necessary to ensure the timely processing and delivery of Election Mail should be made by the relevant installation head to the relevant Regional Vice President. Any request will be processed within three days, as required by the order of the federal district court.

7. Election Mail

The Postal Service and Postmaster General DeJoy have repeatedly reaffirmed their commitment to the timely delivery of Election Mail. Election Mail is defined as “any item mailed to or from authorized election officials that enables citizens to participate in the voting process.” This includes ballots, voter registration forms, ballot applications, polling place notifications, and similar materials. This specific mail qualifies as Election Mail both when it is sent to voters from election officials at the state and local levels and when it is returned by voters to those officials. This is distinct from “political mail,” which is sent by political candidates, political action committees, and similar organizations in order to engage in issue advocacy or to advocate for candidates or other things, such as initiatives, that may appear on a ballot. See Postal Bulletin 22551, July 30, 2020, at 4.

Consistent with the court order referenced above, we will continue to prioritize Election Mail that is entered as Marketing Mail regardless of the paid class. Election Mail identified by the official Election Mail logo or other Postal Service visibility tools will continue to be prioritized pursuant to our long-standing practice. In that regard, please continue to use standardized log sheets to track Election Mail through processing and continue to conduct daily “all clears” as previously instructed to ensure that all Election Mail is accounted for in the system and mail scheduled or “committed” to go out is processed accordingly. Election Mail entered as Marketing Mail should be advanced ahead of all other Marketing Mail and processed expeditiously to the extent feasible so that it is generally delivered in line with the First-Class Mail delivery standards. In that regard, to the extent necessary, please expand processing windows on letter and flat sorting equipment to ensure that all Election Mail received prior to the First-Class Mail Critical Entry Time is processed that same day. Please also continue to prioritize Election Mail, including ballots entered with Green Tag 191, when loading trucks.

Consistent with our long-standing practice, we recognize that it is sometimes not operationally feasible to deliver Election Mail entered as Marketing Mail in line with First-Class Mail delivery standards. This is particularly true with respect to Election Mail Marketing Mail volume that would require air transportation to meet First-Class Mail delivery standards, as this volume typically travels through our ground transportation network, and our systems do not permit Marketing Mail to travel by air. We intend to seek clarification on this item, to make sure that the court understands this limitation and that it is consistent with the court’s order.

8. Nationwide Changes in Service

Under the applicable law, the Postal Service cannot make changes to the nature of Postal Services without first seeking an advisory opinion from the Postal Regulatory Commission. Consistent with the order of the federal district court referenced above, the Postal Service will not make any changes to our retail, delivery or processing operations, that will generally affect service on a nationwide, or substantially nationwide, basis, prior to the upcoming national election.

Thank you for your attention. If you have any questions regarding Logistics and Processing Operations, please contact Mike Barber, Vice President, Processing and Maintenance Operations. If you have any questions regarding Retail and Delivery Operations, please contact Joshua Colin, Vice President, Delivery Operations or Angela Curtis, Retail and Post Office Operations.

We are continuing to evaluate our legal obligations and will circulate updates as necessary.


Kristin A. Seaver
Chief Retail & Delivery Officer
and Executive Vice President
David E. Williams
Chief Logistics & Processing Operations
Officer and Executive Vice President



Please join us for a webinar
on the
**OSCE Election Observation Mission for the
2020 U.S. General Election**

As in previous general elections, the United States has invited international election observers from the Organization for Security and Cooperation in Europe (OSCE) to observe the U.S. elections on November 3.

This webinar will offer an opportunity for OSCE officials to discuss their planned election observation activities in the United States and for U.S. officials to ask questions and share information. U.S. Ambassador to the OSCE James Gilmore III (formerly the 68th Governor of Virginia) will provide brief remarks, along with officials from the OSCE and the Election Assistance Commission.

Thursday, October 1
12:00-1:30 PM EDT / 18:00-19:30 CEST

RSVP to Vanessa Arness, arnessvl@state.gov,
by close of business on September 29

In your RSVP, please include your name, title, and organization. Please note that this event is not open to the general public or press. Upon receiving your RSVP, we will share a link and call-in details for the webinar.

Mandatory Stand-Up Talk

Sept. 24, 2020

Ready to deliver Election Mail for the nation

The Postal Service's number one priority between now and Election Day is the secure, on-time delivery of the nation's Election Mail — and we are ready to deliver for our country.

There has been a lot of media coverage — including many reports with inaccurate information — about Election Mail. To clear up any confusion, and to ensure compliance with a recent court order requiring certain practices, management has been given operational instructions. These instructions will remain in effect until further notice. Specifically:

- **Overtime.** Front-line supervisors and managers will continue to schedule work hours based on workload. Overtime is authorized and instructed to be used as necessary to fulfill our mission and expeditiously move Election Mail.
- **Hiring.** The Postal Service has not implemented a total hiring freeze. EAS hiring was suspended August 7, because of the realignment of our reporting structure. This suspension does not impact hiring for craft positions. Craft positions will continue to be filled in accordance with collective bargaining agreements.
- **Retail Hours.** The Postal Service will not reduce retail hours before the November elections. Natural disasters, civil unrest, or lack of employee availability due to the coronavirus pandemic may necessitate temporary changes, but local managers are not permitted to reduce retail hours without review and approval by both Area and Headquarters management.
- **Collection Boxes.** The Postal Service has suspended the removal of any collection boxes until after the 2020 elections. There may be temporary removal or covering of boxes due to extreme weather, national security incidents, or local events such as wildfires or civil unrest. It is critical that any collection boxes damaged — for example, by hurricane or a car accident — be reported and replaced as soon as possible.

- **Late and Extra Trips.** Late or extra trips have not been banned; they should not be restricted if they are reasonably necessary to complete timely mail delivery. Managers are authorized to use their best business judgment to meet service commitments. Focusing on the transportation schedule does not mean that mail should be left behind — it should not. Instead, processing and transportation schedules should be aligned to help reduce late deliveries and unnecessary costs.
- **Mail Processing.** No mail processing facilities will be closed or consolidated, and no letter or flat sorting machines will be removed before the November elections. We have more than sufficient capacity to process current and anticipated mail volumes with our existing machine supply. Available machines will be returned to service if Headquarters or the Regional Vice President determine that doing so is necessary to fulfill our Election Mail service commitments.
- **Election Mail.** We will continue to expedite Election Mail that is entered as Marketing Mail, as is our long-standing practice. Election Mail entered as Marketing Mail should be advanced ahead of all other Marketing Mail and processed expeditiously. To make this possible, please expand processing windows on letter and flat sorting equipment to ensure that all Election Mail received prior to the First-Class Mail Critical Entry Time is processed that same day.

Please also continue to prioritize Election Mail, including ballots entered with Green Tag 191, when loading trucks, and continue to use standardized log sheets to track Election Mail. Conduct daily “all clears” to ensure that all Election Mail is accounted for in the system and processed accordingly.

The Postal Service and our Postmaster General have repeatedly reaffirmed our commitment to the timely delivery of Election Mail. You can help us meet that commitment and prove that we are ready to deliver. Our country and our customers are counting on us.

Thank you for your attention and thank you for your service to our customers every day.

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Subject: NASS Weekly Elections Committee Call - 10/1/2020

Location: GoToMeeting

Start: Thursday, October 01, 2020 2:30 PM EDT

End: Thursday, October 01, 2020 3:30 PM EDT

Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Required Attendees: Dodd, Stacy <sdodd@sso.org>

NASS Weekly Elections Committee Call - 10/1/2020

Thu, Oct 1, 2020 2:30 PM - 3:30 PM (EDT)

Please join my meeting from your computer, tablet or smartphone.

Overview of Postal Service's Election Mail Preparedness Efforts

The Postal Service's number one priority between now and Election Day is the proper handling and timely delivery of Election Mail. We are ready to fulfill our role in the electoral process. We continue to use time-tested procedures and have implemented new processes, to continue to improve our already robust efforts for Election Mail. Below is an overview of some of the key elements of our preparedness efforts for the November 3rd General Election.

Operational Readiness

- *Standardized Tools.* We use Political & Election Mail logs, Operational Clean Sweep Checklists, and daily All Clear processes to help us track Election Mail through our facilities as well as to ensure that Election Mail is accounted for and properly handled. Teams in the field are conducting self and peer audits to make sure these tools are being used to their maximum effectiveness.
- *Communications with Employees.* We provide training and tools for our employees to ensure they have the knowledge available to support the processing and delivery of all Election Mail volume, and partner with union leadership to further emphasize these important messages.
- *Webinars.* We further share information during weekly Election Mail-focused "Learn & Grow" webinars. These sessions are attended by hundreds of leaders across the Postal Service and we discuss key points and "learnings," such as those gained from service reviews, and spread these messages to all locations. We also hold weekly webinars for Political and Election Mail Coordinators to review important topics and discuss relevant issues.
- *Ballot Ambassadors.* We have expanded our national Election Mail Task Force to include union leadership and the leadership of our management associations. This expanded task force is leading the effort to set up localized task forces, made up of "ballot ambassadors." Our teams of ballot ambassadors will allow strong information sharing across the country as local teams will share their findings with other local teams on a regular basis.

Postmarking

- *Postmarking Team.* In furtherance of its policy to postmark (or "cancel") all completed ballots mailed by voters, the Postal Service convened a Postmarking Team that analyzed data, factored in feedback we were receiving from state and local election boards as well as our local teams, then developed action plans to update our standard work processes and employee communications around the updated processes. We trained all field managers on the updated processes with a national webinar and required a certification of compliance.
- *Ballot Monitors.* To further enhance our postmarking policy, we decided this year to deploy ballot monitors to each of our outgoing processing facilities. Ballot monitors are operationally knowledgeable managers, support personnel, or employees focused solely on ensuring that ballots from voters are being postmarked, or "cancelled," correctly. The ballot monitors are currently in place in and will be through November 3. They monitor the reject flows, compliance to updated processes, look for any potential failure points every night and provide immediate corrections if needed. Each division meets weekly with the Chief Logistics and Processing Officer and Director of Election Season, which helps identify topics and issues that may warrant additional employee communications.

From: Augino, Lori <lori.augino@sos.wa.gov>
Sent: Thursday, September 17, 2020 5:55 PM EDT
To: Zabel, Kylee <kylee.zabel@sos.wa.gov>
CC: Neary, Mark <mark.neary@sos.wa.gov>; Wyman, Kim (Office) <Kim@sos.wa.gov>
Subject: RE: Statement on NASS call

I think this is great. Thank you for doing this!

From: Zabel, Kylee
Sent: Thursday, September 17, 2020 2:53 PM
To: Augino, Lori <lori.augino@sos.wa.gov>
Cc: Neary, Mark <mark.neary@sos.wa.gov>; Wyman, Kim (Office) <Kim@sos.wa.gov>
Subject: Statement on NASS call

Hi Lori,

Sharing this draft statement. Mark has reviewed and provided some edits, and I'll have Secretary Wyman review as soon as possible.

This is just to respond to reporters inquiring. This isn't going to be a typical statement, hence the lack of formatting.

Let me know if you have any concerns!

Kylee Zabel

Communications Director

416 Sid Snyder Ave. SE

Legislative Building - Olympia, WA.

Office: (360) 902-4140 | Cell: (360) 742-4321



Statement for NASS call:

"After the call today, my confidence in the ability of our state and local United States Postal Service (USPS) representatives and workers to prioritize election mail for the upcoming general election remains unshaken. Washington has been conducting vote-by-mail elections for nearly a decade, and has been providing mail-in voting options since the early 1990s. Our longstanding partnership with USPS has been essential to election officials' ability to conduct successful elections in our state for many years.

"When the Office of the Secretary of State learned late that USPS postcards encouraging people to request a mail-in ballot would begin arriving to Washington households late last week, we quickly communicated via a press release and posts on social media that Washingtonians do *not* need to request a mail-in or absentee ballot. Ballots will automatically be mailed to all eligible voters in October. I was disappointed the USPS did not work collaboratively with election officials, especially the nine states slated to conduct vote-by-mail elections this fall, on the creation of this mailer. As chief election officials continue to prepare for November and work diligently to combat misinformation, it is critical the USPS and elections officials work collaboratively to provide timely and accurate information to voters.

"I appreciate Postmaster DeJoy's remarks assuring state election officials that the USPS is prepared for increased election-mail volume, and for staying engaged throughout the call to respond to questions. I am optimistic for more collaboration between election officials and the Postmaster in the future.

"I want to remind Washington state voters that ballots will be mailed no later than Oct. 16. Make a voting plan ahead of time. Visit VoteWA.gov today or contact your county elections office to make sure you're registered or that your registration information is up to date.

"The 2020 General Election is Nov. 3. For more information, visit sos.wa.gov/elections."

From: acohen@nased.org <acohen@nased.org>

Sent: Wednesday, September 16, 2020 8:15 PM EDT

To: acohen@nased.org <acohen@nased.org>

Subject: Update, 9/16: NASED Executive Board Meeting with USPS Executive Leadership, NASS Call with PMG 9/17, Google Civic Engagement Plans, Snapchat Civic Engagement Plans, and National Black Voter Day

Good evening, all,

- USPS:

- In response to a letter from NASED President Lori Augino on Friday evening, members of the NASED Executive Board met with members of the USPS executive leadership team.
 - Steve Monteith, Chief Customer and Marketing Officer and Executive Vice President; Kristin Seaver, Chief Retail and Delivery Officer and Executive Vice President; Dave Williams, Chief Logistics and Processing Operations Officer and Executive Vice President; Tom Marshall, General Counsel and Executive Vice President; Justin Glass, Director of Election and Political Mail; and, Dan Bentley, Election Mail Program Manager.
 - NASED Board members on the call: Lori Augino (President), Michelle Tassinari (Incoming President), Steve Trout (Vice President), Meagan Wolfe (Treasurer), Jared Dearing (Secretary), Keith Ingram (Immediate Past President), Chris Piper (South Region Representative), and Wayne Bena (Midwest Regional Representative).
- USPS reiterated that their intent was to educate voters and to drive them to state and local election officials. They stated that they were trying to provide general guidance to their customers about how to cast their ballots effectively. They were concerned about doing state-specific postcards in case someone didn't live at the address where they received a postcard. USPS shared that their election-related campaign includes posters for their retail facilities, as well as digital and traditional media, among other things.
- NASED Board members on the call were direct in their feedback about the postcard's failures and that elections vary so widely by state that it is not possible to do a generic, nationwide postcard. They stated that outreach of this nature must be done in conjunction with subject matter experts, the same way that election officials lean on USPS state and regional staff for expertise about postal issues.
- The NASED Executive Board asked USPS leadership to send a follow up, state-specific postcard clarifying election information for each state. USPS executive leadership declined.
- The NASED Executive Board asked USPS leadership to work with the NASED Executive Director on all future campaign materials to ensure accuracy. USPS committed to doing so.
 - In follow up, I have sent USPS detailed feedback about their website, and received a commitment in writing that all additional activities are on hold at this time. I will share more information as I have it, including the timing and any other specifics.

- NASS Call with Postmaster General DeJoy:

- As a reminder, Postmaster General Louis DeJoy will join the NASS Elections Committee call tomorrow, September 17, at 2:30pm ET. NASS invited NASED to join.
 - Link: <https://global.gotomeeting.com/join/730686149> (pw: USPS2020)
 - Or by phone: 872-240-3311 (730-686-149)

- Google Civic Engagement Plans:

- Google held a call yesterday afternoon about their plans for civic engagement over the next few months. I sent them my notes to confirm the specifics because I don't want to get anything wrong, but a few things for now:
 - Google gets their data for the OneBox (the box that pops up when you Google "voting in STATE," "how to register STATE," etc) from Democracy Works. Democracy Works reached out to every state and DC to confirm the information and provide a chance for feedback. These data link to state sites.
 - Google gets their polling location and dropbox information from the Voting Information Project.
 - Google will have a National Voter Registration Day Doodle driving to their How to Register product.
 - Google will do state-specific homepage promotions (the link under the search bar) to their How to Vote product from September 24-October 30.
 - Google will do some advertising in early October driving voters to their How to Vote product.

- Snapchat:

- Snap briefed NASS and NASED members about their civic engagement plans on a call earlier today. They will not be sharing their slides.
- If you see misinformation on Snap, you should report it in app and contact Gina Woodworth (gina@snap.com). If your office is interested in working with Snap, Gina is also the person to contact.
- Their civic engagement modules are managed by third parties – voter registration through TurboVote, ballot information from BallotReady, where to vote from the Voting Information Project, and voter guides from a variety of sources (ACLU, NAACP, VotoLatino, etc). If you see issues with the content of those modules you should contact Snap but you will also need to contact the module creators.

- National Black Voter Day:

- Friday, September 18 is National Black Voter Day. This effort is spearheaded by BET Network. They will be using Rock the Vote for voter registration and vote.org for absentee information and other election information.

Don't forget the NASED call on Friday at noon ET: 1-844-621-3956, 126 460 1504#.

That's all for tonight!

Amy

Executive Director
National Association of State Election Directors
Phone: 240-801-6029
Mobile: 203-536-3660
Follow us on Twitter [@NASEDorg](#) and on [Facebook](#)!

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From: acohen@nased.org <acohen@nased.org>

Sent: Friday, September 18, 2020 7:08 PM EDT

To: acohen@nased.org <acohen@nased.org>

Subject: Update, 9/18: NASED Call Notes, USPS Election Campaign Update, NASS Call with PMG DeJoy, and CISA Call Reminder

Attachment(s): "NASED COVID-19 Call_9.18.20.docx","20-cv-2768 Order Granting TRO 2020-09-12 (Filed).pdf","30-1 Settlement Agreement.pdf","30 - Notice of Dismissal.pdf"

Good evening, all,

- **NASED Call:**
 - Attached please find the notes from today's call.
 - [Here is a link](#) to Virginia's Democracy Defenders campaign and [here is a link](#) to their absentee voting educational ad.
 - The Colorado TRO is attached, as is the settlement agreement and the notice of dismissal. If you have questions, please contact Judd Choate (Judd.Choate@sos.state.co.us).
 - Join us Friday, September 25 at noon ET!
 - 1-844-621-3956, 126 460 1504#.
- **USPS:**
 - Earlier this week, the USPS Executive Leadership team committed in writing to putting their entire election-related campaign on hold and running all future communications by NASED. This morning, a state alerted me that USPS was running radio ads in their state that echo the postcard messaging; another state also reported hearing the radio ad. I have discussed with the USPS Leadership Team over the phone, on zoom calls, and in email. The situation is as follows:
 - USPS pulled their radio ad campaign, which was scheduled to be nationwide, late Monday afternoon, following the call with members of the NASED Executive Board. When the ads were pulled, some stations had already slotted them into programming, and had to go back and pull them. In light of learning from NASED that the ads have aired in some places, USPS and their ad buyer has contacted all of the eight radio networks with their buy to ensure the ads are pulled. USPS has confirmed that the ad has been pulled on seven of them; the eighth is a network of independently owned stations, so the network has sent a memo to remove the spot and called their several hundred stations to confirm that the spot had been removed, with instructions to manually remove it if it had not already been taken down. The stations in the two states that reported the ad to me this morning are both on this eighth network of independently owned stations.
 - If you hear the radio ad, or if it is reported to you, please send me the station and the time of day USPS and their buyer will continue to follow up as needed. Given the efforts made today, we do not expect the ad to continue to air, but this is 2020.
 - USPS is also [running a reputational television ad](#), in which they mention ballots as a thing that they deliver, along with prescriptions and other important mail. There is nothing state-specific, but if you have any concerns about this ad, please let me know.
 - **USPS's entire campaign around elections is on hold based on the feedback they received** They are reevaluating what the campaign will look like and will share information early next week so NASED can provide feedback on language.
 - USPS is working on revisions to their USPS.com/votinginfo website based on feedback from NASED. We expect those changes to be implemented early next week.
 - On the NASED call today, many of you discussed wanting the same considerations that Colorado negotiated in their court settlement with respect to reviewing material for your state. While I raised this on a call with USPS leadership this afternoon, my priority today was getting to the bottom of the radio ads. I will follow up about state-specific review on Monday.
- **NASS Call with Postmaster General DeJoy:**
 - Postmaster General Louis DeJoy joined the NASS call on Thursday, September 17. The Postmaster General reiterated that election mail is USPS's number one priority and that the intention of the postcard was to educate, not to cause problems. He committed to better partnership with election officials moving forward. Justin Glass, Director of Election Mail Operations, provided information about USPS training efforts with employees with respect to election mail, the tools USPS uses to track election mail through the mailstream, and postmarking of ballots. He also provided details about USPS's plans for additional resources related to election mail in the mailstream starting in October.
 - USPS committed to sharing written details on their policies and efforts with NASS and NASED next week. I will share those when I have them, so I'm not going into detail here.
- **CISA Call, Friday 9/25:**
 - Reminder that the next sector-wide briefing call with CISA and other members of the intelligence community will be Friday, September 25 at 2:30pm ET.
 - **DIAL-IN:** 800-926-5230
- **NASED Press Release:**
 - NASED [released a press release](#) about UOCAVA Saturday this morning.

I hope you all have a smooth UOCAVA Saturday!

Amy

Amy Cohen
Executive Director
National Association of State Election Directors
Phone: 240-801-6029
Mobile: 203-536-3660

AMERICAN
OVERSIGHT

WA-SOS-20-2118-A-000038

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge William J. Martínez**

Civil Action No. 20-cv-2768-WJM

STATE OF COLORADO, and
JENA GRISWOLD, Colorado Secretary of State,

Plaintiffs,

v.

LOUIS DEJOY, in his official capacity as Postmaster General,
SAMARN S. REED, in his official capacity as the Denver, Colorado Regional
Postmaster,
CHRIS J. YAZZIE, in his official capacity as the Albuquerque, New Mexico Regional
Postmaster, and
UNITED STATES POSTAL SERVICE,

Defendants.

TEMPORARY RESTRAINING ORDER

Plaintiffs State of Colorado and Secretary of State Jena Griswold (jointly, “Plaintiffs”), file this lawsuit against Louis DeJoy, in his official capacity as Postmaster General, Samarn S. Reed, in his official capacity as the Denver, Colorado Regional Postmaster, Chris J. Yazzie, in his official capacity as the Albuquerque, New Mexico Regional Postmaster, and the United States Postal Service (collectively, “Defendants”) to enjoin Defendants from delivering by mail to Colorado households a notice regarding the 2020 election.¹

Currently before the Court is Plaintiffs’ Motion for a Temporary Restraining Order

¹ A copy of the notice at issue in the Motion (“Notice”) is attached as Exhibit A to the Declaration of Judd Choate, Director of Elections for the Colorado Secretary of State. (ECF No. 8-2.)

(“TRO”) (the “Motion”), which was filed earlier today, September 12, 2020. (ECF No. 8.) Given that Plaintiffs also request an injunction in their prayer for relief in their Complaint (ECF No. 1 at 15), the Court will construe the Motion as seeking both a TRO and a preliminary injunction. As to the TRO portion of this motion, the Court finds and concludes as follows.

I. LEGAL STANDARD

“A party seeking a temporary restraining order or preliminary injunction must show (1) a substantial likelihood that the movant eventually will prevail on the merits; (2) that the movant will suffer irreparable injury unless the injunction issues; (3) that the threatened injury to the movant outweighs whatever damage the proposed injunction may cause the opposing party; and (4) that the injunction, if issued, would not be adverse to the public interest.” *NRC Broad. Inc. v. Cool Radio, LLC*, 2009 WL 2965279, at *1 (D. Colo. Sept. 14, 2009). The balance of the harms and public interest factors merge when the government is a party. *See Nken v. Holder*, 556 U.S. 418, 435 (2009).

II. ANALYSIS

A. Substantial Likelihood of Success on the Merits

On this record, the Court finds a substantial likelihood of success on the merits. Under Article I, section 4, clause 1 of the United States Constitution, the States have the sole authority to determine the “Times, Places and Manner of holding Elections for Senators and Representatives,” subject to the supervisory power of Congress to “make or alter such Regulations.” This power is “comprehensive” and

embrace[s] authority to provide a complete code for congressional elections, not only as to times and places, but in relation to notices, registration, supervision of voting, protection of voters, prevention of false and corrupt practices, . . . in short, to enact the numerous requirements as to procedure and safeguards which experience shows are necessary in order to enforce the fundamental right involved.

Smiley v. Holm, 285 U.S. 355, 366 (1932). In 2013, Colorado passed the Voter Access and Modernized Elections Act, 2013 Sess. Laws 681, under which all registered voters are sent a mail ballot. (ECF No. 8-1 ¶¶ 4, 6.)

The Notice provides false or misleading information about the manner of Colorado’s elections by stating that voters should “[r]equest [their] mail-in ballot (often called ‘absentee’ ballot) at least 15 days before Election Day” and “mail [their] ballot at least 7 days before Election Day.” (¶ 4; ECF No. 8-2.)² In reality, Colorado voters do not need to request a ballot at any time. (¶ 6.) Voters who receive a ballot do not need to mail the ballot back at least 7 days before the election; they may alternatively deposit that ballot at a drop-box or may choose to vote in person up to and including on election day. (¶ 7.) If a ballot is lost for whatever reason, a Colorado voter can request a replacement ballot at any time or vote in person. (¶ 6.) Thus, the Notice, which provides patently false information regarding Colorado elections, jeopardizes Colorado’s constitutional right to establish the “Times, Places and Manner of holding Elections.”³

² All “¶” citations, without more, are to the Complaint. (ECF No. 1.)

³ For the same reasons, Plaintiffs have also shown a likelihood of success on their argument that Defendants’ mailing of the Notice violates the Tenth Amendment, which grants States the authority to administer elections. U.S. Const., amend. X; *Gregory v. Ashcroft*, 501

Plaintiffs have also shown that the Notice likely interferes with Colorado citizens' fundamental right to vote. See *Tashjian v. Rep. Party of Conn.*, 479 U.S. 208, 217 (1986)(recognizing that the right to vote is a fundamental right). As stated above, the Notice gives Colorado voters false and misleading instructions about how they should vote in the 2020 election and does not advise voters of alternative methods to cast their ballot. As a result of false information contained in the Notice, some Colorado voters may not vote because they erroneously believe that: (1) they must request a ballot at least 15 days before the election; (2) they must mail their ballot at least 7 days prior to the election; or (3) they may not vote if they lose their ballot.

Assuming the factual accuracy of Plaintiffs' allegations in the Motion, the Court is deeply troubled by the challenged conduct intentionally undertaken by these Defendants. Accordingly, the Court finds that Plaintiffs have shown a likelihood of success on the merits.⁴

B. Irreparable Harm Unless the Injunction is Issued

The Court finds that Colorado will suffer irreparable harm if the Notice is delivered to Colorado households and that no adequate remedy exists to undo or mitigate Colorado's injury. As Plaintiffs contend, the harm caused to Colorado and its residents implicate basic constitutional rights, namely, Colorado's right to determine the time, place and manner of its elections, as well as Colorado voters' fundamental right to

U.S. 452, 461–62 (1991) (“[T]he Framers of the Constitution intended the States to keep for themselves, as provided in the Tenth Amendment, the power to regulate elections.” (internal citations and quotation marks omitted)).

⁴ Because Plaintiffs have shown a likelihood of success on their constitutional claims, the Court need not address their statutory claims at this time.

have their votes counted. See *Obama for Am. v. Husted*, 697 F.3d 423, 436 (6th Cir. 2012) (“A restriction on the fundamental right to vote . . . constitutes irreparable injury.”); *Fleming v. Gutierrez*, 2014 WL 12650657, at *10 (D.N.M. Sept. 12, 2014) (recognizing plaintiffs “would certainly be irreparably harmed if they are unable to vote because of another mismanagement of the election”); *Garbett v. Herbert*, 2020 WL 2064101, at *15 (D. Utah Apr. 29, 2020) (holding the potential of being “unjustifiably shut out from an elections constitutes irreparable injury”).

Moreover, the harm to Colorado and its residents will occur as soon as the Notice is distributed to its voters. See *Fish v. Kobach*, 840 F.3d 710, 751 (10th Cir. 2016) (recognizing that irreparable injury exists where a court is unable to remedy the harm following a final determination on the merits). Colorado voters have been repeatedly informed that they do not need to request a ballot to vote in the 2020 election. (¶ 6.) The Notice, if distributed, will sow confusion amongst voters by delivering a contradictory message. For example, Colorado voters may wonder whether the Colorado’s election laws have changed; wonder whether their voter registration has lapsed; wonder whether they need to request a ballot; wonder whether they need to mail their ballot at least 7 days prior to the election; or wonder whether they can no longer submit a ballot if they have not mailed their ballot at least a week before the election. Even if a subsequent corrective communication is sent to Colorado voters, voters will be left to decide which of the contradictory communications to believe.

Accordingly, the Court finds that Plaintiffs have shown that Colorado and its residents will suffer irreparable harm unless the TRO is issued.

C. Balance of Harms and Public Interest

The Court further finds that the balance of harms and public interest weigh heavily in favor of temporarily restraining Defendants from mailing the Notice to Colorado residents. After all, “[i]t is always in the public interest to prevent the violation of a party’s constitutional rights.” *Hobby Lobby Stores, Inc. v. Sebelius*, 723 F.3d 1114, 1147 (10th Cir. 2013). The Court recognizes that removing the Notice from circulation may impose limited burdens on Defendants. Such burdens, however, pale in comparison to the potential disenfranchisement of registered voters within Colorado and are insufficient to tilt the balance of the equities in the Defendants’ favor. *See Fish*, 840 F.3d at 755 (recognizing that imminent disenfranchisement outweighs potential light administrative burdens).

The Court therefore finds that the balance of harms and public interest weigh in favor of the issuance of a TRO.

D. Issuance of a TRO Before Defendants Can Appear or Respond

To obtain a temporary restraining order before the party to be restrained has an opportunity to appear and respond, a plaintiff must present

(A) specific facts in an affidavit or a verified complaint clearly show[ing] that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition; and

(B) the movant’s attorney[’s] certifi[cation] in writing [regarding] any efforts made to give notice and the reasons why it should not be required.

Fed. R. Civ. P. 65(b)(1). As for requirement “A,” Plaintiffs provide a sworn declaration from Judd Choate, the Director of Elections for the Colorado Secretary of State, on

which the Court has relied to discern the facts meriting a TRO. The Court finds that Plaintiffs have made a sufficient showing that a TRO should issue without further notice, so that the Notice is not immediately distributed to Colorado households. As for requirement “B,” Plaintiffs have indicated that they have emailed notice of the action to Defendants’ counsel. (ECF No. 6 at 2.) Plaintiffs have also complied with D.C.COLO.LCivR 65.1, describing their efforts to communicate with Defendants’ counsel. (ECF No. 6 at 2.)

E. Whether To Issue a Bond

Rule 65(c) states that this Court “may issue a preliminary injunction or a temporary restraining order only if the movant gives security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained.” Although phrased as mandatory, in practice the Court has discretion under this Rule whether to require a bond, particularly in public interest cases involving the fundamental rights of citizens. See 11A Charles Alan Wright et al., *Federal Practice & Procedure* § 2954 n.29 (3d ed., Apr. 2017 update) (citing public rights cases where the bond was excused or significantly reduced). The Court finds that waiving the bond is appropriate in this case.

III. CONCLUSION

Accordingly, for the reasons set forth above, the Court ORDERS as follows:

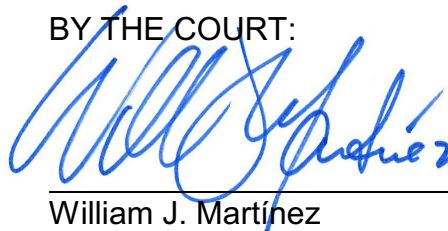
1. Plaintiffs’ Motion for Temporary Restraining Order (ECF No. 8) is
GRANTED;

2. That portion of Plaintiffs' Motion which the Court has construed as a motion for a preliminary injunction remains under advisement;
3. Defendants Louis DeJoy, Samarn S. Reed, Chris J. Yazzie, the United States Postal Service, as well as their officers, directors, agents, employees, successors and assigns, and all other persons in active concert or participation with them, are hereby IMMEDIATELY ORDERED AND RESTRAINED from delivering by mail to Colorado households the official notices attached as Exhibit A to the Declaration of Judd Choate, Director of Elections for the Colorado Secretary of State (ECF No. 8-2);
4. This Temporary Restraining Order shall remain in effect until **11:59 p.m. on September 22, 2020**, unless extended by the Court for good cause;
5. Plaintiffs shall send or deliver a copy of this Order to counsel for Defendants by any means (including multiple means, if appropriate) reasonably calculated to reach counsel for Defendants as soon as practicable. Not later than **9:00 a.m. on September 14, 2020**, Plaintiffs shall file a Certificate of Service confirming their compliance with this directive;
6. Defendants shall respond to the construed motion for a preliminary injunction by no later than **12:00 p.m. on Tuesday, September 15, 2020**. If Defendants have not been provided actual notice of Plaintiffs' filings and a copy of this Order by 8:00 a.m. on September 14, 2020, Defendants may seek an extension of this filing deadline;

7. Plaintiffs shall file a reply in further support of their construed motion for a preliminary injunction by no later than **12:00 p.m. on Wednesday, September 16, 2020;**
8. No later than **9:00 a.m. on Thursday, September 17, 2020,** Defendants are ORDERED to file with this Court an accounting of **all** notices which are the same, or substantially the same, as the Notice attached as Exhibit A to the Declaration of Judd Choate, and which have already been mailed to postal patrons within the State of Colorado. This accounting will, at a minimum, include the number of such notices mailed to Colorado postal patrons broken down by the first three digits of the destination U.S. Postal Service Zip Code, *viz.*, **800 through 816;** and
9. A hearing on Plaintiffs' construed motion for preliminary injunction will be held on **Friday, September 18, 2020 at 9:30 a.m. in Courtroom 801A** in the Alfred A. Arraj Courthouse, 901 19th Street, Denver, Colorado, 80294. Among other things, counsel should be prepared at this hearing to address, in the event this Court grants Plaintiffs' construed Motion for Preliminary Injunction, the issue of what steps it may be necessary and appropriate for this Court to order in light of the Notices already mailed and accounted for by the Defendants in Paragraph 8.

Entered at Denver, Colorado this **12th day of September, 2020 at 6:55**
p.m., Mountain Daylight Time.

BY THE COURT:



William J. Martínez
United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 1:20-cv-02768-WJM-STV

STATE OF COLORADO and
SECRETARY OF STATE JENA GRISWOLD

Plaintiffs,

v.

LOUIS DEJOY, in his official capacity as Postmaster General;
UNITED STATES POSTAL SERVICE;
SAMARN S. REED, in his official capacity as the Denver, Colorado Postmaster; and
CHRIS J. YAZZIE, in his official capacity as the Albuquerque, New Mexico
Postmaster,

Defendants.

NOTICE OF DISMISSAL

The parties have settled this case under the terms of the Settlement Agreement attached as Exhibit A. The State of Colorado and Secretary of State Jena Griswold therefore dismiss this case under Rule 41(a)(1)(A)(i).

RESPECTFULLY SUBMITTED this 17th day of September, 2020.

PHILIP J. WEISER
Attorney General

s/Eric Olson

ERIC OLSON*

Solicitor General

LEEANN MORRILL*

First Assistant Attorney General

EMILY BUCKLEY

Assistant Attorney General

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*Counsel of Record

Exhibit A

Settlement Agreement

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 20-cv-02768-WJM-STV

STATE OF COLORADO, and
JENA GRISWOLD, Colorado Secretary of State,

Plaintiffs,

v.

LOUIS DEJOY, in his official capacity as Postmaster General,
UNITED STATES POSTAL SERVICE,
SAMARN S. REED, in his official capacity as Denver, Colorado Postmaster, and
CHRIS J. YAZZIE, in his official capacity as Albuquerque, New Mexico Postmaster,

Defendants.

STIPULATION AND SETTLEMENT AGREEMENT

Plaintiffs State of Colorado, and Jena Griswold, Colorado Secretary of State (collectively, “Plaintiffs” or “the State”) and Defendants United States Postal Service, and Louis DeJoy, Samarn S. Reed, and Chris J. Yazzie, in their official capacities (collectively “Defendants” or “USPS”), through their respective undersigned counsel, have agreed to resolve the above-captioned case in accordance with the terms set forth below.

BACKGROUND

1. This Stipulation and Settlement Agreement (“Agreement”) is of the above-captioned lawsuit Plaintiffs filed on September 12, 2020. In the Complaint, Plaintiffs asked the Court to halt the distribution, in Colorado, of postcards that USPS prepared and mailed to USPS customers across the country. *See* ECF No. 1 at 3 (hereinafter “Notices”). Plaintiffs filed a

motion for a temporary restraining order prohibiting Defendants from delivering the Notices to any Colorado household. ECF No. 8.

2. The same day, the Court issued a Temporary Restraining Order. ECF No. 11 (hereinafter “TRO”). The TRO includes, among other things, an order restraining Defendants and certain other related parties “from delivering by mail to Colorado households the [Notices]....” *Id.* at 8. Unless extended by the Court, the TRO expires at 11:59 p.m. on September 22, 2020. *Id.*

3. After good faith discussions, the parties have agreed that a cooperative resolution of this lawsuit will further their shared interests, as expressed above.

TERMS

1. The USPS agrees, in consideration for Plaintiff’s commitment below, that:

A. *Colorado Undelivered USPS Postcards.* The USPS will take all reasonable measures not to deliver, to Colorado residents, the Notices that are currently undelivered and are currently being held by the USPS in accordance with the TRO. The USPS will destroy those collected, undelivered Notices. In addition, the USPS will send a certification within 30 days of the execution of this agreement that, to the best of its knowledge, USPS has destroyed the Notices.

B. *Input on usps.com/votinginfo.* The USPS will seek input from the Colorado Secretary of State on the website found at usps.com/votinginfo about any changes to that website that could aid in avoiding voter confusion relating to use of the mails for voting in Colorado. The Colorado Secretary of State and Attorney General, or their designee, may make proposals to change the website by sending those proposals to a

USPS designee. The USPS will provide the name of that designee to Plaintiffs by Friday, September 18, 2020. This USPS designee will be available to receive proposals from the Colorado Secretary of State or Attorney General, or their designee, through December 14, 2020. The USPS retains full editorial control over the website and has full authority not to incorporate suggested input or changes from the Colorado Secretary of State or Attorney General or their designee, but commits to working in good faith to advance the mutual goals of the parties as described herein. If the USPS intends to make changes that the State does not assent to, the Colorado Secretary of State or Attorney General, or their designee, will inform the USPS designee of the objection, and the USPS will embargo and not make those changes for 24 hours. The designees will continue to confer in good faith during this period to determine whether the objection can be addressed or cured. This settlement agreement does not prohibit the State from going to court to raise any objections, and the State reserves all rights to do so.

C. *Input on USPS Media Campaign.* The USPS has developed a multi-part media campaign to educate postal customers concerning the use of the mail to vote (hereinafter “USPS Media Campaign”). The USPS Media Campaign includes several discrete components, including television, radio, print advertisements, and other media. USPS agrees as follows as to the USPS Media Campaign.

- i. The USPS will, through its designee, provide, by Friday, September 18, 2020, to the Colorado Secretary of State and Attorney General, or their designee, a list of the items it is planning to issue as part of the USPS Media Campaign. If this list is expanded to include any new item, the USPS designee

will notify the Colorado designee of the new item.

ii. From Friday, September 18, 2020, through December 14, 2020, before public release of any component of the USPS Media Campaign, the USPS designee will provide the Colorado Secretary of State and Attorney General, or their designee, a copy of the proposed media item. The USPS then will embargo and not release that item for 48 hours (the “Media Review Period”), in order to allow time for the Colorado Secretary of State and Attorney General, or their designee, to provide comments related to whether, in her view, the proposed media item may cause voter confusion in Colorado. The USPS designee may exchange in a back-and-forth discussion with the Colorado designee during this 48-hour period.

iii. If after the Media Review Period, the USPS intends to release a component that the State does not assent to, the Colorado Secretary of State or Attorney General, or their designee, will inform the USPS designee of the objection, and the USPS will embargo and not release that item for an additional 24 hours. The designees will continue to confer in good faith during this period to determine whether the objection can be addressed or cured.

iv. This process is designed to enable input from the Colorado Secretary of State and Attorney General, before a media item is released publicly, on whether the proposed media item may create voter confusion in Colorado. The USPS retains full editorial control over the item, and has full authority not to incorporate suggested input or changes from the Colorado Secretary of State or

Attorney General or designee, but commits to working in good faith to advance the mutual goals of the parties as described herein.

v. This settlement agreement does not prohibit the State from going to court to raise any objection, and the State reserves all rights to do so.

2. Plaintiffs agree as follows:

A. By September 17, 2020, Plaintiffs will file a stipulation of dismissal pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i).

B. Plaintiffs will attach this stipulation to the publicly-filed notice of dismissal. Plaintiffs will not seek a court order adopting the agreement and agree that this agreement is contingent on the Court not retaining jurisdiction or adopting this stipulation as an order of the Court.

3. Each party will bear its own costs and fees.

4. The Parties agree that this Agreement shall constitute the whole agreement and supersedes any other agreement between the Parties relating to the subject of this Agreement. This Agreement may be amended only by a written amendment signed by the Parties. This Agreement shall not constitute an admission by any party as to any facts or as to the merits of any position taken in the litigation.

Respectfully submitted this 17th day of September, 2020.

s/ Samuel J. Schmidt

UNITED STATES POSTAL SERVICE

By: Samuel J. Schmidt

Managing Counsel

U.S. Postal Service Law Department

9350 South 150 East, Suite 800

Sandy, UT 84070-2716

Telephone: (801) 984-8400

s/ Jena Griswold

JENA GRISWOLD,

Colorado Secretary of State

JASON R. DUNN

United States Attorney

s/ Kevin T. Traskos

By: Kevin T. Traskos

Chief, Civil Division

United States Attorney's Office,
District of Colorado

1801 California St., Suite 1600

Denver, Colorado 80202

Telephone: (303) 454-0100

s/ Philip J. Weiser

STATE OF COLORADO

By: Philip J. Weiser,
Attorney General

Ralph L. Carr Colorado Judicial Center

1300 Broadway, 6th Floor

Denver, Colorado 80203

Telephone: 720-508-6000

**NASED Weekly Call
September 18, 2020**

WA: Members of the NASED Executive Board met with Executive Leadership at USPS on Monday. We told them that we understood that they had good intentions, but the implementation was problematic. We felt like it was a productive conversation and we secured a commitment to halt their future efforts and collaborate with us. We learned today about radio and tv ads running, which make me not hopeful.

CO: We got a Temporary Restraining Order (TRO) to stop the mailings. We have 2.1M households, and by the time the TRO was issued on Saturday evening local time, USPS had mailed all but 555k postcards. We were set for court this morning to make it a permanent restraining order, but we agreed to settle. The outstanding 555k will not be mailed and we get 48-hour preapproval for Colorado-specific communications. We have to lodge complaints within 24 hours, and they need to operate in good faith.

KY: What court were you in?

CO: This has precedential value for the 10th circuit and for Colorado. Strangely, USPS never got their filing in before the TRO was issued, which is unusual.

AZ: I was planning to take the CO ruling and ask that they commit to doing the same thing. Anyone else?

OR: We could ask them to honor the Colorado ruling for all 50 states.

Amy: I will make this ask.

KY: Is the ruling just about the mailers or all media?

CO: We get input on the usps.com/voting info website and they have to operate in good faith. We also get input on the media campaign, which is described as a multipart, multichannel media campaign, including tv, radio, print, and other. USPS will provide a list of what it's planning to do and will provide SOS with copy of every proposed media item. If we object to any item, it will be embargoes and not released without our approval.

CA: We're mailing to all active registered voters. How do other states that do this handle the HAVA ID issues? What do you do? Is there a cure? Do you have documentation?

WA: We send them a ballot, but they're flagged in the system and they have to provide ID before it gets counted. If they don't send ID with their ballot, the county follows up to cure and they have 20 days, which is the certification deadline, to do so. We send an individual mailing and it goes in the ballot packet and they get follow up if they don't include it in their returned ballot. I will share our procedures and language.

CO: Our process is exactly the same.

OR: I had my counties go through a few years ago and see who was flagged as HAVA ID. It turned out that many were flagged incorrectly.

OR: I was invited to an FBI TTX on 9/10. Did anyone else? It wasn't very good. The scenarios weren't great and seemed like the scenarios before DHS really knew anything about elections. I'm trying to get them to sync with CISA.

KY: We were invited and we participated. I can't remember the date, so maybe it was earlier. The scenarios weren't great. They were really focused on the investigative side, which makes sense. We're going to keep trying to work with them so they can make it better. It was helpful for the partnership and good to know they're still thinking about these things and working on them.

VA: We used some FY18 HAVA funds to launch a campaign on election security. The goal is to assure voters about our security posture. The angle campaign took is that everyone in offices is a real person, not political, and everyone is working to secure democracy. The campaign is called "[Democracy Defended](#)." It's a good opportunity to remind people that we are real people.

Also, early voting started today. We had a 2 hour wait at one of our suburban DC offices when it opened at 8:30am.

Amy: What did it cost?

VA: We set aside \$150k, and ultimately we put \$200k in. We're not doing tv, but we're doing some radio. Most of it is social and YouTube and other streaming services like Hulu. We're targeting based on politics, but we also wanted to do some blanket, non-targeted ads so we weren't just talking to people who are already engaged. We also spent some money on [voter education on absentee](#). It's a fun campaign where the people are silhouettes like the old iPod commercials.

Amy: Did you work with a communications firm on this? Were they local?

VA: We worked with local businesses on all of this (woman and minority owned). If anyone wants to work with them, I strongly recommend them. They already have some ideas since they provided us with a few options.

VT: We are mailing to active registered voters on Monday. Wish us luck! We had two lawsuits about our ability to do that denied. We had case against us in federal court dismissed.

CO: Has anyone applied for the Chan-Zuckerberg money through CEIR?

Yes: NC, MA, WA, AZ, KY, NY, FL

CO: I was guessing there wasn't as much interest. We were worried it was too late.

WA: We're just going to invest more in the campaigns we already planned.

MA: Same. We're just going to be able to do more.