

IN THE
Supreme Court of the United States

UNITED STATES POSTAL SERVICE, *et al.*, *Applicants*

v.

STATE OF CALIFORNIA, *et al.*, *Respondents*

DONALD J. TRUMP, *et al.*, *Applicants*

v.

LEAGUE OF WOMEN VOTERS OF MASSACHUSETTS, *et al.*, *Respondents*

**BRIEF OF *AMICI CURIAE* STATE AND LOCAL ELECTION OFFICIALS,
LOCAL GOVERNMENTS, AND THE CENTER FOR ELECTION
INNOVATION AND RESEARCH IN OPPOSITION TO APPLICATION
FOR A STAY OF THE INJUNCTION ISSUED BY THE UNITED STATES
DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS**

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STATEMENT OF INTEREST

Amici Curiae (“*Amici*”) include a bipartisan group of 81 current and former state and local election officials and 19 local jurisdictions charged with the responsibility for administering elections, including federal elections. *Amici* hail from a diverse range of states and localities, including 27 states. *Amici* also include the Center for Election Innovation and Research (“CEIR”), which consists of election experts who support election officials’ work.¹ *Amici* submit this brief in opposition to the pending application to stay the preliminary injunction issued by the United States District Court for the District of Massachusetts against portions of the final rule recently promulgated by the United States Postal Service (“USPS”), entitled “Ballot Mail for Federal Elections,” 91 Fed. Reg. 54966 (Aug. 26, 2026) (to be codified at 39 C.F.R. pt. 111) (hereinafter the “Final Rule” or “Rule”).²

Given their roles and responsibilities, *Amici* have a strong interest in the fair and efficient administration of elections, in safeguarding the right to vote, and in protecting the constitutionally derived authority of states and localities to regulate elections within their borders. To carry out their duties, election officials develop policies and procedures for their offices, train staff and poll workers, educate voters,

¹ Pursuant to Supreme Court Rule 37.6, *Amici* state that no party or party’s counsel authored this brief in whole or in part, and no party or party’s counsel contributed money intended to fund preparation or submission of this brief. A list of all *Amici* is provided at Appendix A.

² The district court enjoined the implementation and enforcement of certain provisions of the Final Rule only as to elections occurring on or before November 3, 2026. *See* Appl. 2a, 47a-49a.

and respond to real-time constituent needs within their respective jurisdictions. *Amici* election officials are also bound under the National Voter Registration Act (“NVRA”) to “promote the exercise of” the “fundamental right” to vote. 52 U.S.C. § 20501(a)(1)–(2). *Amici* are unified in their commitment to ensuring that elections operate in accordance with state and federal law and that every eligible voter has an opportunity to cast a ballot.

As the front-line workers of election administration and election administration experts, *Amici* understand the practicalities of administering elections and are well-positioned to explain the significant administrative problems and confusion introduced by the challenged USPS Final Rule. Based on their extensive experience and expertise, *Amici* write to offer the Court their first-hand perspective about the on-the-ground impact of the Final Rule, including the disastrous and immediate harms that the Rule would impose on election officials and their ongoing preparations for the upcoming November 2026 midterm elections if the district court’s injunction is not maintained.

INTRODUCTION AND SUMMARY OF ARGUMENT

Preparing for a federal election is a massive undertaking, requiring many months, if not years, of advance planning and coordination among thousands of state and local election officials nationwide. And each step in that process—including recruiting and training election workers, communicating with voters, printing ballots, and ensuring that voters can cast their ballots, whether in-person or by mail—is critical to protecting the fundamental exercise of the franchise. Against that backdrop, the late-breaking USPS Final Rule—which was promulgated mere months before the

November 3, 2026 general midterm elections, and which mandates sweeping, costly, and burdensome changes to mail-in voting procedures—would prove disastrous for election officials and election administration. And it would seriously undermine the upcoming elections by depriving untold numbers of citizens of their ability to vote by mail, as permitted by state law.

Amici fully agree with Respondents’ legal argument that the challenged Final Rule is unconstitutional and unlawful many times over. It violates core constitutional separation-of-powers principles, contravenes multiple statutory limitations on the Postal Service’s authority, and is otherwise *ultra vires*. As the district court correctly found when enjoining it, the Rule marks an unprecedented and indefensible assertion of executive power in an area where USPS has neither expertise nor experience, let alone any lawful authority. *See* App. 25a-31a.

But *Amici* write primarily to highlight the grave practical consequences of the Rule, as well as the staggering logistical hurdles to implementing the Rule’s mandates—if it is even possible at all—in time for the rapidly approaching midterm elections. As of this filing, mail-in ballots are already being mailed out to voters in certain states. Other states and localities across the country have already designed, purchased, and printed their mail-in ballots and ballot envelopes. Yet the Final Rule would require scrapping those materials, and then re-designing and re-submitting mail-in ballot envelopes to USPS for approval, with no guarantee (and, indeed, essentially no plausible chance) that the agency would grant approval in time for jurisdictions to mail out their ballots to voters. The Rule would then require election officials to devote countless hours to inputting voter information into a brand-new, as-

yet-unfinished, and wholly untested federal portal—on which no election officials have yet received any training, and which is almost certain to be overloaded as soon as it comes online. If all that were not enough, the Rule would further require election officials to spend impossibly long periods of time waiting in person at local post offices while their jurisdictions’ mail-in ballot envelopes are scanned and verified by postal employees.

Every stage of this incomplete, untested, and poorly conceived process is ripe for errors. And the consequences would be grave: Millions of voters across the country rely on mail-in and absentee voting, and many of those voters would have no effective alternative if USPS precludes their ability to vote by mail. The district court independently reached the same conclusion on a developed evidentiary record. Most notably, the court found that immediate implementation of the Rule less than seventy days before the election “threatens disenfranchisement of millions of United States citizens,” while the record contained no evidence of fraudulent voting by mail to support this rushed implementation. App. 45a-46a. The insurmountable burdens imposed by the Final Rule would thus strike directly at the exercise of the fundamental right to vote and undermine public confidence in elections and election results.

Whatever the ultimate legality of the Final Rule, its novel requirements should not—and cannot responsibly—be allowed to go into effect on a mandatory basis for the elections less than two months away. Applicants’ assertion that the injunction itself “risks sowing confusion and chaos,” Appl. 5, turns reality on its head. On the contrary, it is USPS’s eleventh-hour imposition of a brand-new federal regime that would

disrupt settled procedures for mail-in ballots and introduce chaos into the election process already underway.

With mail-in voting having already begun, and with Respondents having satisfied every legal requirement for the order issued by the district court below, this Court should deny Applicants' requested stay, preserve the settled procedures on which election officials and voters are relying, and avoid injecting into the November elections the chaos and risk of disenfranchisement that mandatory implementation of the Final Rule would create at this late stage.

ARGUMENT

I. A Stay Would Change the Rules of the Road After Election Officials Have Already Put Them Into Operation.

The demands and resulting impacts of implementing the Final Rule would be felt most acutely at the state and local levels, where elections are administered. Given the timelines mandated by the Rule itself and by other state and federal laws, combined with all of the administrative steps required by the Rule and by election administration generally, it is *Amici's* considered view that it would be extremely difficult if not impossible for election officials to implement the sweeping changes mandated in the Final Rule in time for the rapidly approaching November 3, 2026 general midterm elections. Indeed, if the Final Rule is permitted to take effect for those upcoming elections, the inevitable result would be widespread chaos and confusion and, ultimately, the disenfranchisement of significant numbers of voters who lawfully rely on voting by mail.

“[R]unning a statewide election is a complicated endeavor,” requiring “thousands of state and local officials and volunteers [to] participate in a massive

coordinated effort to implement the lawmakers’ policy choices on the ground before and during the election,” and requiring “at every step, state and local officials [to] communicate to voters how, when, and where they may cast their ballots through in-person voting on election day, absentee voting, or early voting.” *Democratic Nat’l Comm. v. Wis. State Legislature*, 141 S. Ct. 28, 31 (2020) (Kavanaugh, J., concurring in denial of application to vacate stay). Accordingly, the “Court’s precedents recognize a basic tenet of election law: When an election is close at hand, the rules of the road should be clear and settled.” *Id.*; *see also Merrill v. Milligan*, 142 S. Ct. 879, 880 (2022) (Kavanaugh, J., concurring in grant of applications for stay) (acknowledging that “state and local election officials need substantial time to plan for elections” because “[r]unning elections state-wide is extraordinarily complicated and difficult . . . and pose[s] significant logistical challenges”).

USPS’s Final Rule, however, wholly upends the existing rules regarding voting by mail with less than two months remaining before the nationwide elections on November 3, 2026. Meanwhile, as *Amici* know from their personal experiences, preparations for the upcoming midterm elections, including those for voting by mail, have been well underway in states and localities across the country for many months. Yet the Final Rule threatens to derail those efforts at the last minute, causing incalculable harm to election administration, election officials, and voters alike.

Election officials like *Amici* are actively engaged in both administering primary elections (which are still set to occur in early- to mid-September 2026 in

several states³) while also preparing for the November 2026 general elections right now. This work involves a near-constant stream of critical and time-sensitive tasks required to administer safe, efficient, and fair elections. Those tasks include recruiting, training, and coordinating with election workers and volunteers; working with third-party vendors and contractors; establishing and promulgating guidance and rules for election administration; engaging in voter education; processing voter registrations and handling voter registration challenges; preparing and printing ballots and ballot envelopes; finalizing polling sites and ballot dropbox locations; and preparing, programming, and testing voting machines and tabulation equipment. Moreover, although Election Day itself is November 3, 2026, early voting begins in October 2026 for a majority of states and starts as early as mid-September (e.g., September 18, 19, or 24, 2026) in a handful of states.⁴ To put it mildly, election officials across the country, including *Amici*, are incredibly busy with election preparation tasks that are already well underway. *See also* App. 42a-43a.

As particularly relevant to the significant changes mandated in USPS's Final Rule, states and localities nationwide have already begun preparations in earnest for mail-in balloting and absentee voting by mail, in accordance with their respective states' laws. Each state's laws impose different requirements and set different deadlines for voting by mail, with September 4, 2026 being the earliest date on which

³ *See 2026 Primary Elections by State and Territory*, Fed. Voting Assistance Program, <https://perma.cc/ED3Q-C2AC>; *2026 State Primary Election Dates*, Nat'l Conf. of State Legislatures (May 27, 2026), <https://perma.cc/XY47-8Y6R>.

⁴ *See Early Voting Dates, 2026*, Ballotpedia, <https://perma.cc/J9H5-RY57>.

ballots were mailed out in at least one state, and October 16, 2026 being the latest date on which ballots may be mailed out in other states.⁵ Meanwhile, under the Uniformed and Overseas Citizens Absentee Voting Act (“UOCAVA”), as amended by the Military and Overseas Voter Empowerment (“MOVE”) Act, Pub. L. No. 111-84 § 579(a)(1)(C), 123 Stat. 2190, 2322 (2009), federal law mandates that election officials must mail absentee ballots to overseas and military voters no later than September 19, 2026. *See* 52 U.S.C. § 20302(a)(8)(A) (requiring requested ballots to be mailed out 45 days in advance of a federal election).⁶

In light of these looming deadlines—and deadlines that have already passed in some states—most jurisdictions have already designed and placed orders for their mail-in ballots and envelopes, and many jurisdictions have in fact already printed those envelopes and/or received them from third-party vendors. As explained in greater detail below, canceling those pending orders or discarding already-purchased envelopes at this late date would not only result in dramatically increased costs for rush-printing services but would render it exceedingly difficult, if not impossible, for jurisdictions to re-design, re-print, and mail out ballots in time to comply with their respective states’ statutory deadlines.

⁵ *See Table 7: When States Mail Out Absentee/Mail Ballots*, Nat’l Conf. of State Leg., <https://perma.cc/4XZE-GHH7> (listing deadlines for mailing out absentee/mail-in ballots by state, with North Carolina and Delaware falling at the beginning of the window and Washington and Colorado falling at the later end of the window).

⁶ Although *Amici* recognize that the Final Rule does not itself cover UOCAVA ballots, the UOCAVA deadline informs election officials’ preparations of mail-in ballots, and it helps to explain why jurisdictions have already begun preparing, ordering, and printing such ballots and ballot envelopes.

Moreover, jurisdictions nationwide have already set their budgets for administering the upcoming midterm elections. Funds have been appropriated and, in many cases, allocated and spent on other critical election-related infrastructure and materials. Yet despite requiring costly and administratively burdensome changes, all on a moment's notice, the Final Rule does not provide any financial support whatsoever to states and localities to implement the Rule's mandates. Further compounding these problems, the Final Rule comes at a time when local election offices throughout the country are already facing severe staffing challenges. Since the 2020 election, there has been well-documented turnover in local election officials, who have faced increased threats to their safety and recently heightened risks of federal criminal investigation and prosecution.⁷ This has led to reductions in the overall number of staff and the number of staff with long-term experience. The extraordinarily compressed deadlines that the Final Rule mandates for the upcoming midterm elections would thus create intractable operational problems for state and local election officials, who would be required to implement and comply with the Rule's mandates regarding mail-in voting on impossible timelines, with limited personnel and limited financial flexibility.

⁷ See, e.g., *New Report Reveals Alarming Election Official Turnover and Offers Solutions*, Issue One (Feb. 3, 2026), <https://perma.cc/5Q7K-7GHE>; *Local Election Officials Survey 3*, Brennan Ctr. for Just. (Apr. 13, 2026), <https://perma.cc/C49K-EC2S> (noting that thirty-two percent of local election officials surveyed reported experiencing threats, harassment, or abuse because of their job, while fifty-two percent reported concern for the safety of their colleagues); Kate Brumback, *Justice Department Seeks the Names of 2020 Election Workers in Georgia's Fulton County*, AP (May 5, 2026), <https://perma.cc/5K73-58F7>.

In short, and as explained in further detail below, the changes marked by the Final Rule simply come too late and are too burdensome to be workable for the upcoming November 2026 general elections. It would be exceedingly difficult, if not impossible, for *Amici* and their fellow election officials to implement those changes on this timetable while also performing all the work necessary to administer free and fair elections.

II. The Balance of Equities and Public Interest Overwhelmingly Favor Denying a Stay of the Preliminary Injunction.

The Final Rule imposes onerous new requirements for mail-in voting, with the burdens of its implementation falling on state and local election officials. Unlike the Executive Order previously before this Court, the Final Rule unquestionably imposes concrete demands on state and local election officials. Granting a stay of the district court's existing injunction would thus require those officials to meet those demands at the expense of the critical work already underway to administer the November elections. That distinction matters to the equities: This Court previously concluded that a stay of the previous preliminary injunction would not "concretely harm" the States precisely because the Executive Order "makes no demand" of them. *Trump v. California*, No. 25A124, slip op., at 10 (U.S. Aug. 24, 2026). The Final Rule does. Applicants do not even contest this. Instead, they recast the demands as "modest conditions" on the acceptance of federal-election ballot mailings, Appl. at 22, but this characterization is belied by both the record below and the extensive experience of *Amici*, who would be required to implement the new requirements on the ground.

The Rule dramatically overhauls the existing system, under which states have long relied on USPS to neutrally and expeditiously mail out and then return voters'

mail-in and absentee ballots. And it replaces that *status quo* with a system under which USPS would now refuse to transmit ballots by mail unless states scrupulously adhere to all the Rule's new requirements. But each new step of the process outlined in the Final Rule would introduce delay, confusion, and intolerable risks of errors, all while voters' fundamental right to vote hangs in the balance.

For a state to comply with the Final Rule, it must first ensure that its outbound and return ballot envelopes comply with new design requirements, including the incorporation of Intelligent Mail barcodes, and it must submit its envelope designs to USPS for review and approval. 91 Fed. Reg. at 54990-91. After obtaining approval of the ballot envelope and return envelope designs, state or local election officials must then input each voter's information into a USPS-run electronic Federal Ballot Mail Portal. 91 Fed. Reg. at 54991. Notably, the Final Rule provides no timeline for USPS's approval of ballot envelopes, but it nonetheless precludes election officials from uploading voter information into the Portal until USPS first approves the envelope designs, including the required Intelligent Mail barcodes. *Id.* And where state or local election officials do not obtain advance envelope approval from USPS, or do not successfully upload all voter information into the USPS Portal, the agency would not mail that state's ballots to voters. *Id.*

Based on *Amici's* experience, and as outlined more specifically below, attempting to comply with each of these new requirements in advance of the upcoming November 2026 elections would require a significant investment of time and resources, which many jurisdictions simply do not have to spare at this point in the electoral cycle. In addition, the compounding delays and inevitable errors

introduced throughout the process would almost certainly result in a significant number of voters being unable to effectively cast their votes by mail. Those consequences would fall especially heavily on voters who rely on mail-in voting because of age, disability, or temporary residence, and whom state law permits to vote by mail.

A. The Final Rule’s mandates for re-designing ballot envelopes would be financially costly and likely cannot be accomplished in time for the November 2026 elections.

The Final Rule adopts rigid design specifications for all outbound and return envelopes for absentee and mail-in ballots for federal elections. *See* 91 Fed. Reg. at 54990–91. Each envelope must include the “official Election Mail logo,” be “automation compatible,” and bear “the voter’s unique [Intelligent Mail barcode].” *Id.* To comply with these demands, many state and local election officials would be required to re-design and even re-print their ballot envelopes. As explained above, many jurisdictions have already ordered their ballot envelopes, and some have already printed, received, or even mailed those envelopes. The need to discard those old envelopes and re-design and re-print new ones in advance of the November 2026 elections would impose significant costs, including for rush printing jobs by third-party vendors equipped to handle these new technical requirements on short notice.

The mandated changes regarding envelope design would be felt at every level of election administration. Most states do not have a single design for mail-ballot envelopes. Counties and localities in a single state may use different voting machines and different types and sizes of ballots, requiring different ballot and envelope designs. Changing these processes to comply with the Final Rule’s mandates would

be a major undertaking, requiring significant time and monetary resources—burdens which would inevitably fall on state and local election officials. Indeed, under the Final Rule, state and local election officials are “responsible for barcode creation” “as well as envelope design and printing for all ballot mail.” *Id.* at 54991. But the Final Rule provides no funding for implementing these major changes, nor sufficient time for their completion before the Rule would make compliance a condition of transmitting ballots to voters.

For example, the requirement that every jurisdiction use Intelligent Mail barcodes on each outbound and return envelope creates onerous new obligations that would be costly and difficult—if not impossible—for election officials to follow, particularly in time for the upcoming midterm elections. This would especially impact rural communities that do not currently have the technology to produce these barcodes⁸ and large urban areas that must process high volumes of election mail. USPS’s suggestion that it offers “free” tools for generating Intelligent Mail barcodes provides an incomplete solution. *See* 91 Fed. Reg. at 54979. USPS’s tool is only available for mailings with fewer than 50,000 pieces of mail.⁹ Thus, the largest counties in states across the nation, including in Arizona, Colorado, and Washington, would not be able to use this USPS tool for their election mail. And, according to

⁸ *See* Dion Nissenbaum et al., *USPS Proposal to Carry Out Trump’s Executive Order Could Create New Barriers to Mail Voting*, VOTEBEAT (May 29, 2026), <https://perma.cc/8TV4-MW5K>.

⁹ *See* USPS, *Intelligent Mail® for Small Business (IMsb) Fact Sheet* (June 1, 2023), <https://perma.cc/H744-ZQKD>.

Arizona’s top election official, not a single one of Arizona’s counties includes Intelligent Mail barcodes on return-ballot envelopes, which have already been printed.¹⁰ Exacerbating the unexpected expense of this requirement, many jurisdictions would have to move from in-house printing to a rush order submitted to a commercial mail vendor in hopes of printing envelopes in time for the November 3, 2026 elections.

Moreover, USPS itself acknowledges that there are currently technical impediments that would prevent the creation of Intelligent Mail barcodes for certain voters, such as when a voter’s address cannot be verified using Delivery Point Verification, which can often miss certain non-traditional mailing addresses (*e.g.*, tribal addresses, college dormitory addresses, and nursing-home addresses). *See* 91 Fed. Reg. at 54979-80. While USPS “anticipates” that it will make modifications to this tool, it provides no timeline for these changes. *Id.* at 54979. Typically, USPS would spend at least a year implementing a new system like the verification process the Final Rule outlines. It would hold a conference for all impacted jurisdictions and provide trainings for those required to interact with the system.¹¹ But none of that has happened for the new changes introduced by the Final Rule. As of the date of this filing, and ***after*** ballots have already been printed in many jurisdictions, and already mailed in some, election officials still have not received comprehensive guidance or

¹⁰ Decl. Arizona Secretary of State Adrian Fontes ¶ 24(b), *California v. USPS*, No. 1:26-cv-13917-IT (D. Mass Aug. 26, 2026), Dkt. No. 4-5 (hereinafter *California* D. Ct.).

¹¹ Eric Katz, *Postal Officials Say Trump’s Mail-Ballot Push Will Create Widespread Errors*, NOTUS (Aug. 27, 2026), <https://perma.cc/V56K-PAS5>.

training on the Rule’s new requirements.¹² This extraordinarily rushed implementation is bound to cause significant chaos and delays for election officials and, ultimately, for the voters whom they serve.¹³

In addition to the time and resources that merely printing the Intelligent Mail barcodes would require, the Final Rule also introduces exorbitant time demands and delays into the process of mailing ballots. Federal-ballot mailers would each need to be segregated from, for example, UOCAVA ballots and state-election-only ballots, neither of which are subject to the Final Rule, and then individually scanned and processed in-person at a local post office location. *See* 91 Fed. Reg. at 54981. This scanning and verification process alone would likely take more time than state and local election officials have to spare. Even if USPS employees physically scan the mail-in ballot envelopes for verification, state and local election officials like *Amici* must “**remain**” at the “postal retail location during the verification process.” *Id.* (emphasis added). An example using USPS’s own estimates illustrates the unworkable nature of the Final Rule’s demands. USPS estimates that scanning each of these envelope barcodes generally takes “less than a minute per mailpiece.” *Id.* If each scan approached USPS’s stated upper-end estimate, scanning Colorado’s more

¹² Indeed, *Amici* election officials in Pennsylvania report that USPS scheduled three training sessions on Intelligent Mail barcodes for September 1, 2, and 3, 2026, only to cancel all three sessions without explanation.

¹³ *Amici* are also concerned that the Final Rule’s new, untested system could inadvertently sweep in other time-sensitive election mailings bearing the Official Election Mail logo, potentially delaying or blocking critical communications to voters. USPS instructs election officials to use that logo not only for ballots, but also for voter-registration cards, absentee applications, polling-place notifications, and other election mail. *See* USPS, *Election Mail*, <https://perma.cc/F8K3-VTPA>.

than four million mail ballots would require more than 66,000 worker-hours. In their Application, USPS invokes the Rule’s separate assertion that verification of even “larger mailings” should take only “a few hours.” Appl. 32. But neither the Rule nor USPS explains how that assertion squares with USPS’s own per-mailpiece estimate, much less identifies any factual basis for it. With thousands of ballots arriving at a time and millions upon millions of ballots across the country, the inevitable delays would place an unworkable demand on worker hours that state and local election officials cannot afford—particularly during the extraordinarily busy final weeks leading up to a major election.

B. State and local election officials must use a USPS Portal that is not yet operational and for which they have not been trained.

If the Final Rule’s burdens associated with the envelope re-designs were not enough to justify preserving the district court’s order (they are), the further burdens on state and local election officials imposed by the Final Rule are. Before any ballots can be mailed out under the Final Rule, state and local election officials like *Amici* must enter voter information into USPS’s Federal Ballot Mail Portal—an as-yet-unavailable system on which no election officials have been trained. The chief election official of each state would be charged with authorizing users within their state to access this new Federal Ballot Mail Portal. *See* 91 Fed. Reg. at 54991. Local election officials like *Amici* would then be required to use that Portal to notify USPS of individuals to whom they plan to mail a ballot, including the unique barcodes associated with the outbound mailings and return ballots assigned to each voter. *Id.* This information would be compiled to create the state’s “Mail-In and Absentee

Participation List.” *Id.*

But the Portal that election officials must use to comply with the Final Rule does not even exist in operational form. Just days ago, USPS acknowledged that it was still “mak[ing] refinements” to it and could offer no date certain for its availability, stating merely that it “anticipate[d] being in a position” to make the Portal available “by sometime next week.” *California* D. Ct. Dkt. No. 150-1 ¶ 3. With the election less than 60 days away, ballots already being mailed in some states, and the Portal’s technical specifications still unpublished, that tentative prediction leaves election officials with the prospect of having to implement an entirely new system on an uncertain date, potentially after they have already begun mailing ballots under existing procedures.

To input all of this information into this yet-to-be-released Portal, state and local election officials would be required to stand up wholly new procedures and train staff to input information to form the basis of the state-specific Mail-In and Absentee Participation Lists mandated by the Final Rule. Yet while the Final Rule demands that state and local election officials “must” provide the information for the Mail-In and Absentee Participation Lists “at least 30 days before the date of the federal election” “or by the date on which mail-in or absentee ballots may begin to be mailed under state law,” 91 Fed. Reg. at 54991, that deadline is now literally impossible to meet in many jurisdictions. North Carolina began mailing ballots on September 4,

2026,¹⁴ and numerous other States will do so within days or weeks. These timelines place election officials like *Amici* in an impossible position, and—if faced with a stay of the district court’s injunction by this Court—would require them to begin diverting resources to comply with these new mandates before USPS has even provided a platform for inputting this information.

Elevating concerns further, on September 1, 2026, Senator Richard Blumenthal made public an anonymous whistleblower report from a federal official with direct knowledge of the Rule (the “Whistleblower Report”), which describes the rushed implementation of USPS’s system for verifying and transporting mail-in ballots.¹⁵ The whistleblower explicitly warned that “[e]lection officials will be responsible for reconciling issues” within the newly imposed regime, for which the “opportunity for error and other failures . . . is high.” *Id.* ¶¶ 3, 24. Additionally, and even more concerning, USPS has adopted a “zero percent failure rate,” meaning that when USPS clerks scan batches of ballots to confirm that they match the information in the Federal Ballot Mail Portal, an issue with *even one* of the ballots will result in USPS returning the entire batch of ballots to the state or local jurisdiction without mailing them. *Id.* ¶¶ 26–30. And because a single batch may contain tens of thousands of ballots, one mismatch or scanning error could result in

¹⁴ Emily Davies, *North Carolina Mails First Ballots of Fall, as Trump Tries to Restrict Them*, N.Y. Times (Sept. 4, 2026), <https://perma.cc/BW5K-5HM7>.

¹⁵ *Anonymous Whistleblower Disclosure, Re: USPS Rushed Implementation of New and Untested IT Systems Threatens U.S. Ballot Mail Delivery*, Whistleblower Aid (Aug. 30, 2026), <https://perma.cc/Z3Z4-QD2A>.

tens of thousands of otherwise valid ballots being rejected and returned to election officials rather than mailed to voters. That USPS expects to implement this entirely new system without adding personnel only compounds the risk of widespread operational failures. *See* 91 Fed. Reg. at 54986. Multiple USPS officials have reportedly described the development of this process—a process that relies on state and local election officials like *Amici* to fix system errors—as a “s**t show.” Whistleblower Report ¶ 19 (citation modified).

The whistleblower’s grave concerns are consistent with other independent reporting. A longtime USPS executive who was “personally responsible for developing the network technology the agency would need to carry out its rule” predicted that the Portal is likely to suffer a 20% to 30% error rate, which “would be a disaster.”¹⁶

The burdens of implementing the Final Rule—and of addressing the consequences when its requirements cannot be met under the unrealistic timeframes imposed—fall squarely on state and local election officials like *Amici*. In many jurisdictions, election officials would be required to input data into the Portal manually (and likely even on an individual voter-by-voter basis). This is because states’ and localities’ existing data storage systems are unlikely to be compatible with the Portal (*e.g.*, because many jurisdictions’ databases do not include fields that can capture information about the Intelligent Mail barcodes that must be submitted into the Portal). Nor can jurisdictions necessarily solve those problems by simply

¹⁶ Eric Katz, *Postal Officials Say Trump’s Mail-Ballot Push Will Create Widespread Errors*, NOTUS (Aug. 27, 2026), <https://perma.cc/V56K-PAS5>.

purchasing new equipment or software on the timeline the Final Rule imposes, given the competitive and time-consuming procurement rules applicable in many jurisdictions.

Even if the Portal were operational and election officials could overcome these implementation hurdles, it would still be extremely time-consuming and practically infeasible to satisfy the Portal's data-entry requirements for the November elections. Election officials would need to update the Portal data nearly daily as voters move, new voters register, or voters request mail-in ballots, including replacement ballots. Voter rolls are updated until the very last day that a jurisdiction can mail ballots, which in some jurisdictions is as close as four days before Election Day. The Final Rule would thus require election officials to continually update the Portal during precisely the period when they are focused on the other critical statutory and administrative duties necessary to administer the midterm elections.

Critically, election officials cannot simply rush the transfer of sensitive voter information into a brand-new and untested federal system when errors could implicate not only voters' privacy, but their ability to receive and cast a ballot. Indeed, the Final Rule expressly states that outbound mailings that do not comply with the USPS Portal enrollment requirements "will not be accepted and will be returned." 91 Fed. Reg. at 54991. Thus, seemingly any error—regardless of how minor—would result in a ballot not being mailed to a voter. The Final Rule provides no guidance on how errors in Portal submissions or compiled Mail-In and Absentee Participation Lists would be identified and addressed, or how long that process would take. Furthermore, USPS has also provided no guidance as to how election officials can

submit information into the Portal while still complying with their state’s laws regarding privacy and confidentiality of voter data.¹⁷

Accordingly, the district court’s injunction against the Final Rule was an appropriate response to the immediate, here-and-now harms the Rule and its rushed implementation impose. And the injunction is narrowly calibrated to those harms: It suspends only mandatory implementation for the November 3, 2026 midterm elections, while leaving implementation for later elections untouched.¹⁸

C. The Final Rule risks undermining state and local election officials’ efforts to promote voter confidence and participation in elections.

Election officials also play an important role in promoting voter confidence and increasing voter participation. Because the Final Rule imposes significant changes immediately preceding nationwide elections, election officials like *Amici* are struggling to prepare communications and trainings for election workers and the public to assuage confusion or concerns. These issues include how the Mail-in and Absentee Participation Lists would be used, how USPS would address or resolve

¹⁷ For example, California law allows voters that meet certain qualifications to register as “confidential voters” for a variety of reasons, including personal safety, life-threatening circumstances as determined by a California court, and a person’s role as a public safety officer, election worker, or candidate or elected official. *See* Cal. Elec. Code §§ 2166, 2166.5, 2166.7, 2166.8, 2166.9. State law prohibits California from including confidential voters’ information on any roster or list, which would presumably include the newly mandated USPS Portal. *See id.* §§ 2166(b)(2), 2166.5(b)(2), 2166.7(d)(2), 2166.8(d)(1), 2166.9(d)(1).

¹⁸ Should a locality voluntarily choose to follow the Final Rule’s requirements for the November 2026 midterm elections, it is free to do so under the district court’s injunction.

errors on those lists, and how registered voters can assure that they receive their mail-in or absentee ballot and can then confidently return it. To meet these growing concerns about the November 2026 midterm elections, state and local election officials already need to devote time and resources to voter education regarding the Final Rule's changes. The price for these sorts of educational campaigns is substantial. These are expenditures for which jurisdictions have not accounted and for which the federal government has offered no support. Yet they are critical to assuring that state and local election officials can administer free and fair elections in which voters can trust this November.

Finally, the many uncertainties posed by the Rule would undermine election officials' ability to assure voters that their votes will count. Because USPS will refuse to deliver ballots if a state does not comply with the Final Rule—including because of inadvertent errors in data entry into the Portal, problems with the Intelligent Mail barcodes on the ballot envelopes, or otherwise—USPS would end up refusing to transmit ballots for some citizens who are in fact properly registered to vote, and who are entitled to vote by mail under their state's laws. And because election officials cannot predict in advance which ballots USPS may disallow, they would not be able to effectively counsel voters about how to ensure that they are able to successfully vote by mail. Furthermore, the Rule's complicated requirements would likely lead some eligible voters to misunderstand whether they are able to use a mail-in ballot at all, and it may even lead some eligible voters to conclude that the added requirements make voting too confusing to be worthwhile. This runs directly counter

to election officials’ mandate to “promote the exercise of” the “fundamental right” to vote. 52 U.S.C. § 20501(a)(1)–(2).

III. The Final Rule exists within the context of the threatened prosecution of state and local election officials, and it would thus further discourage election officials and volunteers from serving.

The Final Rule imposes upon state and local election officials, including *Amici*, demands that are impossible to meet—all the while threatening them, through the Executive Order that precipitated the Final Rule, with federal criminal prosecution. Exec. Order No. 14399, 91 Fed. Reg. 17125 (Mar. 31, 2026), <https://perma.cc/NY6V-KJV3> (hereinafter “EO”). USPS has made clear that the primary purpose of the Federal Ballot Mail Portal and the Mail-in and Absentee Participation Lists is to “provide valuable insight” into mail-in voting for federal law enforcement, specifically through disclosing “a list of individuals to whom states planned to mail a ballot (and who may potentially use the mail to vote), along with the associated barcode data,” which in turn can purportedly be used to “identify potentially anomalous incidents that may merit further investigation.” 91 Fed. Reg. at 54980, 54982. This all comes in the context of an EO directing federal agencies to prioritize the investigation and prosecution “of State and local officials . . . who issue Federal ballots to individuals not eligible to vote in a Federal election.” EO § 2(b); *see also id.* § 5 (providing that “State or local election officials . . . [and] individuals involved in the administration of Federal elections; or public [] entities engaged in the printing, production,

shipment, or distribution of ballots may be referred to the Department of Justice for consideration of investigation or charges under” various federal criminal laws).¹⁹

These baseless legal threats have already harmed ongoing election preparations, including by deterring staff, volunteers, and contractors from agreeing to assist in election administration. Layering onto these threats the additional onerous requirements of the Final Rule—which mandates multiple new steps for the mail-in voting process, each of which introduces additional possibilities for inadvertent errors—would only further depress recruitment and retention efforts for both election officials and election volunteers alike.

Amici understand that the Executive Branch has claimed that these measures are justified because there is widespread fraud supposedly allowing non-citizens to vote. But election officials carefully follow state and federal law, adopting strict processes to ensure that only eligible voters can cast a ballot. As a result, in *Amici*’s experience—and as confirmed by numerous independent research studies—non-citizen voting is vanishingly rare.²⁰ *Amici* are likewise aware that the EO limits its directives to “appropriate” prosecutions “consistent with applicable law.” EO §§ 2(b), 7(b). But those qualifications provide little practical reassurance to election officials

¹⁹ State election officials have also recently received targeted communications from the U.S. Department of Justice threatening to prosecute them if they facilitate voting by anyone whom the federal government believes is ineligible to vote. See Jenna Monnin, *DOJ Issues Nationwide Threat to Prosecute Local Election Officials*, NOTUS (July 8, 2026), <https://perma.cc/MQ69-NGGY>.

²⁰ See *Claims of Noncitizen Registration or Voting: Analysis and Tracker*, Ctr. for Election Innovation & Rsch. (July 2, 2026), <https://perma.cc/5893-J5YS>.

being required, on an extraordinarily compressed timeline, to navigate a brand-new federal regime that creates numerous opportunities for inadvertent error. In *Amici*'s experience, the prospect of federal investigation or prosecution—even if ultimately determined to be unwarranted—has a chilling effect on the employees, volunteers, and contractors on whom election offices depend, especially when coupled with the uncertainty created by a new and untested mandatory federal regime. *Amici*, and other officials like them, cannot effectively do their jobs under such conditions.

* * *

In short, it is far too late in the election cycle to introduce such dramatic and unwarranted changes to the mail-in voting process. The district court's order leaves election officials to administer the upcoming elections under the procedures already in place; this Court should not disrupt those procedures at this late stage by granting a stay.

CONCLUSION

For the foregoing reasons, the Court should deny the application for a stay of the district court's injunction.

Respectfully submitted,

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September 9, 2026

APPENDIX A: LIST OF *AMICI CURIAE*

Amici include the Center for Election Innovation and Research (“CEIR”), a nonpartisan nonprofit whose core mission is to work with election officials and build confidence in elections that voters should trust and do trust. *Amici* also include the following local governments, and the following current or former election officials, listed alphabetically by last name, along with their titles and jurisdictions:

LOCAL GOVERNMENTS AND ORGANIZATIONS

City of Albany, New York

Allegheny County, Pennsylvania

City of Boston, Massachusetts

Bucks County, Pennsylvania

City of Cambridge, Massachusetts

Delaware County, Pennsylvania

Hennepin County, Minnesota

County of Los Angeles, California

Martin Luther King Jr. County, Washington

Milwaukee County, Wisconsin

City of Minneapolis, Minnesota

Pierce County, Washington

Pima County, Arizona

County of San Diego, California

City and County of San Francisco, California

City of San Jose, California

County of Santa Clara, California

Santa Fe County Clerk's Office, New Mexico

County of Sonoma, California

STATE AND LOCAL ELECTION OFFICIALS

Vasu Abhiraman

Board of Registration and Elections Vice Chair, DeKalb County, Georgia

Natalie Adona

Registrar of Voters, Marin County, California

James P. Allen

Elections Director, Delaware County, Pennsylvania

Laura Anna

Director of Elections, Venango County, Pennsylvania

Michelle Ascencion

Elected County Clerk-Recorder & Registrar of Voters, Ventura County, California

Katrina Bartolomie

Assessor-Clerk-Recorder-Registrar of Voters, Mendocino County, California

Kate Sweeney Bell

County Clerk, Marion County, Indiana

Karen Brinson Bell

Former Executive Director and Chief Election Official, Board of Elections, North Carolina

Lisa Brown

County Clerk/Register of Deeds, Oakland County, Michigan

Bill Burgess

County Clerk, Marion County, Oregon

Elaina Cano

County Clerk-Recorder & Registrar of Voters, San Luis Obispo County, California

Laura Cantrell
Election Commissioner, Hot Spring County, Arkansas

Gabriella Cazares-Kelly
Recorder, Pima County, Arizona

Juan Pablo Cervantes
County Clerk and Recorder & Registrar of Voters, Humboldt County, California

John Clark
Mayor, Town of Ridgeway, Colorado

Mary R. Clark
Clerk, Delta Township, Michigan

Becky Close
County Clerk and Recorder, Eagle County, Colorado

Rich Coglianese
Board of Elections Member, Union County, Ohio

Amber Concepcion
Commissioner, Centre County, Pennsylvania

Cynthia Cornejo
Interim Registrar of Voters, Alameda County, California

Cynthia Cox
Election Administrator, Brewster County, Texas

Matt Crane
Executive Director, Colorado County Clerks Association, Colorado

David Del Terzo
Senior Software Developer, County Supervisor of Elections Office, Miami-Dade County, Florida

Keaton Denlay
County Clerk-Recorder/Registrar of Voters, Butte County, California

Francisco Diaz
County Clerk-Recorder, San Benito County, California

Jilline Dobratz
City Clerk, City of West Bend, Wisconsin

Justin Douglas
Commissioner, Dauphin County, Pennsylvania

Mark S. Earley
Supervisor of Elections, Leon County, Florida

Daniel Adams Eaton
Moderator and Chief Election Officer, Town of Stoddard, New Hampshire

Diana Fuentes
City Clerk, City of San Diego, California

Jacob P. Gonzales
Chief Deputy Clerk, San Miguel County, New Mexico

Beau Harbin
County Legislator, Cortland County, New York

Sherri Heise
Town Clerk, Town of El Paso, Wisconsin

Mark Higgins
Commissioner, Centre County, Pennsylvania

Keri Hinton
Clerk, Yamhill County, Oregon

Nikki Hunt
Clerk, Town of Pine Grove, Wisconsin

Christopher Johnson
Deputy City Clerk, City of Menomonie, Wisconsin

Hayle M. Johnson
Clerk, County of Jackson, Colorado

Jonathan Johnson
Town Clerk, Town of Putney, Vermont

Kevin J. Kennedy
Former Chief State Election Official, Wisconsin

Susan M. Kilen
Deputy Clerk/Deputy Treasurer, Village of Poynette, Wisconsin

Michele Konopka
Supervising Clerk, Board of Elections, Atlantic County, New Jersey

Elizabeth Krizenesky
Election Manager, Pend Oreille County, Washington

Tracey Lauritzen
Clerk & Recorder, Lake County, Colorado

Debra Lee
County Clerk, Laramie County, Wyoming

Corinne Lengel
Clerk and Recorder, Lincoln County, Colorado

Nicholas J. Lima
Registrar/Director of Elections, City of Cranston, Rhode Island

Jo Ellen Litz
County Commissioner, Lebanon County, Pennsylvania

Dean C. Logan
Registrar-Recorder/County Clerk, Los Angeles County, California

Daniel Loomis
County Clerk, Douglas County, Oregon

Joan Lopez
Clerk and Recorder, Arapahoe County, Colorado

Dele Lowman
Board of Registration and Elections Member, DeKalb County, Georgia

Neil Makhija
County Commissioner and Chair of the Board of Elections, Montgomery County, Pennsylvania

Kirk McDonough
Board of Canvassers Chairperson, City of Cranston, Rhode Island

Catherine McMullen
County Clerk, Clackamas County, Oregon

William McHugh
Election Services Supervisor, Contra Costa County, California

Laura Miller
Election Chairperson, Fredonia Township, Michigan

Lori Mitchell
County Clerk and Recorder, Chaffee County, Colorado

Jennifer Mosbacher
Board of Elections Chair, Cobb County, Georgia

John L. Myers, Jr.
Municipal Clerk, Town of Buxton, Maine

Cheryl Neilsen
County Clerk, Montmorency County, Michigan

Diane Nelson
Clerk, Town of Brule, Wisconsin

Chris Piper
Former Commissioner, Department of Elections, Virginia

Taryn Power
Clerk & Recorder, Summit County, Colorado

Jake Quinn
Board of Elections Member, Buncombe County, North Carolina

Derrin E. Robinson
County Clerk, Harney County, Oregon

Katie Rosenberg
County Board Supervisor, Marathon County, Wisconsin

Jesse Salinas
County Registrar of Voters, Yolo County, California

Armando Salud-Ambriz
Clerk-Recorder/Registrar of Voters, Nevada County, California

Jameson D. Shew
County Clerk, Douglas County, Kansas

Michael Siegrist
Clerk, Canton Township, Michigan

Aubrey Sonderegger
County Recorder, Coconino County, Arizona

Susie Spring
County Clerk, Parmer County, Texas

Heather Suffron
Clerk/Treasurer, Town of Manitowish Waters, Wisconsin

Karli Swift
Board of Registration and Elections Chair, DeKalb County, Georgia

Chris Swope
City Clerk, City of Lansing, Michigan

Wendy June Tanguay
Clerk/Treasurer, Town of Oakland, Wisconsin

Anita Holcomb Tucker
Secretary, Board of Registration & Elections, Forsyth County, Georgia

Chris Walker
County Clerk, Jackson County, Oregon

Braxton White
Commissioner, Clarion County, Pennsylvania

Jamila H. Winder
Commissioner, Montgomery County, Pennsylvania