

David A. Cross
Suwanee, GA 30024

April 10, 2024

Georgia State Election Board
2 MLK Dr.
Suite 802 Floyd West Tower
Atlanta Ga. 30334

PETITION FOR AMENDMENT TO ELECTION RULES
(Chain of Custody – Mailed Ballots)

Mr. John Fervier, Chairman
Mrs. Sara Tindall Ghazal,
Mr. Edward Lindsey,
Dr. Janice W. Johnston,
Mr. Rick Jeffares,

This petition for an amendment to an election rule incorporates a change to the way ballots are mailed to electors in a way that provides for maintenance of chain of custody for ballots.

I am filing this notarized petition for the proposed rule amendment in a good faith attempt to prevent the theft or misappropriation of ballots mailed by the counties or the state. The intent of this rule is to maintain chain of custody of ballots in Georgia elections on behalf of all Georgia voters. I urge your prompt attention to this matter submitted in accordance with the provisions of Rule 183-1-1-.01(3):

1. The name and post office address of the Petitioner is:

David Cross

Suwanee, GA 30024
Dcross108@protonmail.com

2. The full text of the rule requested to be amended and desired to promulgate:

Rule 183-1-14-.11 Mailing and Issuance of Ballots

~~During early voting~~, as additional applicants for absentee ballots are determined to be eligible, the board of registrars or absentee ballot clerk shall ~~mail or issue~~ mail by United States Postal Service Restricted and Tracked Mail official absentee ballots or provisional absentee ballots, if appropriate, to such additional applicants immediately upon determining their eligibility. The board or clerk shall make such determination and ~~mail or issue~~ mail by United States Postal Service Restricted and Tracked Mail official absentee ballots; provisional absentee ballots, if appropriate, or notices of rejection of absentee ballot applications to such additional applicants within 3 business days after receiving the absentee ballot applications.

3. The reason such rule should be amended, repealed or promulgated.

Rule 183-1-14-.11 Mailing and Issuance of Ballots, begins with “During early voting” – this portion of the rule should be deleted. In addition, the rule does not specify how ballots shall be mailed. Currently, ballots are mailed by first class mail, metered mail or by contractor with only the specification that ballots are not forwardable. To maintain chain of custody for Georgia ballots, counties should be using the United States Postal Service Restricted Delivery service with tracking so that Elections Directors may be assured that every single ballot mailed is either delivered to the intended recipient or returned to the county.

In every precinct on Election Day, before you ever receive your ballot, you must show identification, you are given your ballot or ballot card, you are observed marking your ballot and your ballot is returned to the scanner under the watchful eye of a poll worker. Chain of custody is maintained at every step of the way.

The United States Election Assistance Commission (EAC) states in their publication “Best Practices: Chain of Custody” regarding ballots that:

There are points in the life cycle of a mailed ballot that are important to document in a chain of custody, including:

- When ballots are received from a ballot printer
- When voters request a mailed ballot, applicable
- When a mailed ballot is transmitted to a voter
- When a mailed ballot is collected from a voter, drop box or post office
- When a mailed ballot has a defect, such as a missing signature, that could be corrected
- When a mailed ballot is counted
- When a mailed ballot is stored in the custody of an election official

The EAC goes on to recommend:

Signatures help create an auditable record whenever the equipment, supplies and ballots change hands or location. By signing the chain of custody forms the signers are certifying when they took custody of the voting equipment, supplies, and ballots and delivered them to a particular location.

Source:

https://www.eac.gov/sites/default/files/bestpractices/Chain_of_Custody_Best_Practices.pdf

U.S. Postal Service Restricted Delivery with tracking can satisfy the EAC best practice recommendation because the United States Postal Service provides a time stamped record for each step on the way to delivery. It captures the time of mailing; time of delivery and the delivery requires a proof of identification with a timestamped signature to satisfy delivery.

4. Any and all pertinent facts as to the Petitioner’s interest in the matter.

I have been personally contacted by multiple United States Postal workers who have stated:

1. They were instructed by their Postmaster to deliver ballots after an election has ended.
2. They have observed unsecure, undelivered ballots in their post office.
3. They have picked up large numbers of ballots from assisted living homes.

I am keenly interested in election security, and I do not understand why we have such tight security on mailed ballots when they are manufactured, securely stored prior to use, securely stored after use but no tracking is done during delivery even though we have the capability to do so.

5. Any and all facts known to the Petitioner that might influence the decision of the Board to initiate or not initiate rulemaking, including identification of any parties who it is known will or may be affected by the amended rule.

The fact that this letter for a rule change had to be sent “certified or registered mail, to the Chairperson of the State Election Board” demonstrates that the State Elections Board values proof of delivery. If this document is required to be sent with proof of delivery, why is the same not required of ballots? Ballots are infinitely more valuable and consequential than a letter regarding a possible rule change.

In fact, the United States Citizenship and Immigration Services (USCIS) uses Signature Confirmation Restricted Delivery per their notice below:

Release Date: 04/27/2018

WASHINGTON - U.S. Citizenship and Immigration Services (USCIS) announced today that the agency **will begin phasing in use** of the U.S. Postal Service’s (USPS) Signature Confirmation Restricted Delivery service

to mail Green Cards and other secure documents beginning April 30, 2018.

Signature Confirmation Restricted Delivery increases the security, integrity, and efficiency of document delivery. The Signature Confirmation Restricted Delivery process provides better tracking and accuracy of delivery information, improving service to applicants.

Source: <https://www.uscis.gov/archive/uscis-to-begin-using-more-secure-mail-delivery-service>

Maintaining chain of custody is critical for election security and for confidence in elections. Current Georgia Rule & Regs require that counties mail ballots and that the cost of mailing is the responsibility of the county.

Opponents of this rule change may say that the cost is an unfunded mandate by the state. Proponents would argue that early voting is an unfunded mandate where counties employ election workers at polls that take in just a handful of voters on some early voting days. Both are correct and yet the counties have found a way to integrate the cost of mailing ballots without assistance or significant impact to their budget.

6. Citations of legal authorities that require the action requested by Petitioner.

O.C.G.A. 34-9-81 Contents of Written Notice; Manner of Delivery specifies that with workers compensation claims, “written notice shall be given personally to the employer, or his agent, representative, or foreman, or to the immediate superior of the injured employee or may be sent by registered or certified mail or statutory overnight delivery addressed to the employer at his last known residence or place of business.” If the state is required to deliver notices such as this by certified mail, it stands to reason that ballots, being sensitive legal documents also, should be delivered in the same manner.

None.

I, David Cross personally appeared before the undersigned officer duly authorized to administer oaths, and on oath deposes that the facts stated in the Petition therein are true and accurate.

Respectfully submitted this the ____ day April, 2024.

David Cross

SUBSCRIBED AND SWORN BEFORE ME

this the ____ day of October, 2023
to certify and witness my hand
and official seal.

Notary Public in and for

_____ County, Georgia.

[AFFIX NOTARIAL SEAL]