

NOTICE: This opinion is subject to formal revision before publication in the bound volumes of NLRB decisions. Readers are requested to notify the Executive Secretary, National Labor Relations Board, Washington, D.C. 20570, of any typographical or other formal errors so that corrections can be included in the bound volumes.

**Starbucks Corporation and Workers United Affiliated
With Service Employees International Union.**
Case 19–RC–295849

July 22, 2026

**DECISION ON REVIEW AND CERTIFICATION OF
RESULTS OF ELECTION**

BY CHAIRMAN MURPHY AND MEMBERS PROUTY
AND MAYER

This case presents two issues: Whether the Regional Director erred in overruling the challenges to the ballots of two voters who hand-delivered their mail ballots directly to the Regional Office, instead of submitting them via U.S. Mail pursuant to the instructions for voting, and whether the Regional Director erred in overruling the Employer’s objections to the election, which were largely premised on the hand-delivery of ballots noted above.

On May 13, 2022, Workers United affiliated with Service Employees International Union (the Petitioner) filed a petition seeking to represent a unit of all full-time and regular part-time baristas and shift supervisors employed by Starbucks Corporation (the Employer) at its store located at 4115 4th Avenue South, Seattle, Washington. On June 14, 2022, the Regional Director for Region 19 directed a mail-ballot election.¹ The Tally of Ballots revealed that, of approximately 24 eligible voters, four ballots were cast in favor of the Petitioner and four ballots were cast against representation, with two determinative challenged ballots. The Employer challenged the ballots of employees Jessica Perez and Dan Kavanaugh on the basis that their ballot envelopes did not have postmarks. The Employer also filed timely objections to the election. Subsequently, the General Counsel transferred the case from Region 19 to Region 28. On October 25, 2022, the Regional Director for Region 28 directed a hearing with respect to the Employer’s Objections 1 and 2,² as well as with respect to the Employer’s challenges to the ballots of Perez and Kavanaugh.

On November 16, 2022, the Hearing Officer issued her Report, recommending that Objections 1 and 2 and the ballot challenges be overruled. The Employer filed excep-

tions to the Hearing Officer’s Report. On April 25, 2023, the Regional Director for Region 28 issued his Decision on Certain Objections adopting the Hearing Officer’s recommendations to overrule the Employer’s objections and challenges. Thereafter, in accordance with Section 102.67 of the Board’s Rules and Regulations, the Employer filed a request for review of the Regional Director’s Decision on Certain Objections, and the Petitioner filed an opposition to the request for review.

The Employer’s Request for Review of the Regional Director’s Decision on Certain Objections is granted because it raises substantial issues warranting review. Having carefully considered the entire record in this proceeding, we reverse the Regional Director’s decision to overrule the challenges to the ballots of Jessica Perez and Dan Kavanaugh, and we affirm the Regional Director’s decision to overrule the Employer’s Objections 1 and 2. Accordingly, we certify the results of the election.

The Employer’s Challenges

The Notice of Election in this case states that the “election would be conducted by mail” and “will be by secret ballot carried out through the U.S. Mail” In addition, the record contains Form 4175, titled “Instructions to Eligible Employees *Voting By United States Mail*” (emphasis added). This document, which is mailed to all unit employees in an election conducted by mail as part of the kit including their ballot, provides voters with step-by-step instructions for how to vote in the election. The last step affirmatively instructs voters to “MAIL THE BALLOT IMMEDIATELY. NO POSTAGE IS NECESSARY.”

The record is clear that the voters in this case were specifically instructed to return their ballots via U.S. Mail, with no indication that ballots could be delivered in person. Further, there is no evidence in this case that Region 19 indicated to voters pre-election that anything other than voting by U.S. Mail was permitted. Nevertheless, Perez and Kavanaugh did not follow the unambiguous instructions; instead, their ballots were hand-delivered directly to the Regional Office on the morning of July 20, the deadline for the Region to receive the ballots. In this respect, Perez testified that, before the 2 p.m. deadline on Wednesday, July 20, she asked her boyfriend to hand-deliver her sealed and signed mail ballot envelope to the Region 19 office. He informed her that, at an unspecified time before p.m. that day, he placed Perez’s mail ballot envelope in-

¹ The Regional Director based his mail-ballot determination on the Board’s decision in *Aspirus Keweenaw*, 370 NLRB No. 45 (2020). The Employer filed a request for review of the Regional Director’s mail-ballot determination. On September 29, 2022, the Board issued its decision in *Starbucks Corp.*, 371 NLRB No. 154 (2022), in which it modified the *Aspirus* framework but concluded that the Regional Director had appropriately directed a mail-ballot election under the Board’s prior

standard. Due to the Board’s Rules and Regulations in effect at the time, the ballots were not opened and counted until after the Board issued its decision ruling on the request for review.

² The Regional Director overruled the Employer’s other objections without a hearing. The Employer filed a request for review of this determination, which the Board denied on December 23, 2022.

side the drop box located at the Region 19 office and did not communicate with any individuals while there. Kavanaugh testified that on the morning of Wednesday, July 20, he walked to the Region 19 office, rang the doorbell, and handed his ballot envelope to an unidentified employee. The employee took his ballot envelope and provided him copies of both sides of the envelope. Kavanaugh did not testify about anything that this employee told him or any conversation between them.

At the time of the election in this case, the Board had no policies or procedures permitting voters to pick up and/or drop off mail ballot kits directly at the Regional Office, nor does it have such policies or procedures now.³ The Notice of Election, as well as the standard instructions for voting in mail-ballot elections—which was sent to the employees in this election—expressly state that ballots are to be sent and returned via U.S. Mail. Perez and Kavanaugh decided on their own not to follow the Board’s established procedures as set forth in the instructions they received for returning their ballots. And, as noted above, no pre-election communication from Region 19 to voters, including Perez and Kavanaugh, indicated that hand-delivery of mail ballots would be permitted. We therefore reverse the Regional Director’s decision and sustain both of the Employer’s ballot challenges.

The Employer’s Objections

In its Objection 1, the Employer contends that: “Region 19 personnel engaged in election misconduct by failing to adhere to the DDE by allowing voters to vote in person, rather than by mail” based on the Employer’s belief that “Region 19 personnel communicated with the Union ex parte to arrange for such special voting.”

In overruling this Objection, we agree with the Regional Director that the Employer has not met its burden to estab-

lish that Region 19 engaged in misconduct that would raise “a reasonable doubt as to the fairness and validity of the election.” *Polymers, Inc.*, 174 NLRB 282, 282 (1969), *enfd.* 414 F.2d 999 (2d Cir. 1969), *cert. denied* 396 U.S. 1010 (1970). The Employer introduced no evidence of pre-election communication from Region 19 indicating that voters could hand-deliver their mail ballots. Nor did it introduce evidence that Region 19 acted in concert with the Petitioner to permit select voters to hand deliver their mail ballots.

Further, even if Region 19 deviated from the Board’s established procedures by accepting Perez’ and Kavanaugh’s ballots at the Regional Office, it is well established that “the failure to achieve absolute compliance with [the Board’s] rules does not necessarily require that a new election be ordered.” *Polymers, Inc.*, 174 NLRB at 282–283. Rather, as indicated above, the relevant question is whether the Region’s conduct raises a reasonable doubt as to the fairness and validity of the election. *Id.* at 282. Region 19’s conduct here did not raise any such doubt: the Employer challenged the ballots of Perez and Kavanaugh at the ballot count; their ballots were properly segregated; and we have now ruled that their ballots will not be counted. Even though they were improperly submitted to the Regional Office by hand, the two challenged ballots will have no effect on the results of the election.⁴

Turning to the Employer’s Objection 2, the Employer contends that “[t]he Union engaged in unlawful ballot harvesting by soliciting voters to vote in person rather than by mail.” We agree with the Regional Director that no evidence indicates that the Petitioner solicited, collected, or otherwise handled any ballots in this election; nor that Kavanaugh was an agent of the Petitioner.⁵ Accordingly, Employer’s Objection 2 is also overruled.

³ In this respect, the Board’s Casehandling Manual, which details the required procedures for the Regional Offices to follow in conducting Board elections, did not then, nor does it now, provide for the hand-delivery of mail ballots.

Our dissenting colleague apparently believes that in the absence of a specific prohibition of the hand delivery of mail ballots in the Manual, the election notice, or the election instructions, that practice is implicitly permitted. Obviously, we disagree.

Our dissenting colleague also criticizes our decision, asserting that we are denying two employees of their right to vote in the instant election. Again, we disagree. The right of employees to vote in an election does not include the right to ignore the Board’s express instructions on how to vote. Indeed, in order to “preserve the integrity of the voting process,” the Board has found that ballots of voters who have failed to follow the voting instructions should not be counted. See, e.g., *Thompson Roofing, Inc.*, 291 NLRB 743, 743 fn. 1 (1988) (voiding voter’s mail ballot where he failed to follow the election instructions by printing, rather than signing, his name on the ballot envelope).

⁴ We find no merit in the Employer’s assertion that voters were disenfranchised because there may have been some eligible nonvoters who would have voted and cast determinative ballots had they known that

they could drop them off at the Regional Office. As we have explained above, voters *could not* have permissibly dropped off their ballots at the Regional Office. Nor is there evidence of any communication from the Regional Office that would have misled them into believing otherwise. Related to this assertion, the Employer does not contend that either Perez or Kavanaugh was disenfranchised by Region 19’s *acceptance* of their hand-delivered ballots on the due date. In this respect, we note that Kavanaugh did not testify about any conversation he had with the Region 19 employee, nor that, had the employee *declined* to accept his ballot, he would have attempted to send it by regular or overnight mail despite having missed the deadline. And, as noted above, there is no evidence that Perez’ boyfriend encountered any Region 19 employee when he deposited Perez’ ballot in a drop box.

⁵ Kavanaugh testified that he offered to help voters return their ballots on his own initiative and without any direction from the Petitioner; that no one took him up on his offer of assistance; and that he learned about the possibility of delivering his ballot directly to the Regional Office from his fellow employees, and not the Petitioner. Perez, in turn, testified that she only learned about the possibility of returning her ballot directly to the Regional Office when she received a text from Kavanaugh. Similarly, both Kavanaugh and Perez testified that they did

Conclusion

Having sustained the challenges and overruled the objections, the results of the election stand at four votes in favor of the Petitioner and four votes against representation; accordingly, the Petitioner did not receive a majority of votes cast in the election. We therefore find that a certification of results of election should be issued.

CERTIFICATION OF RESULTS OF ELECTION

It is certified that a majority of the valid ballots have not been cast for Workers United affiliated with Service Employees International Union, and that it is not the exclusive representative of the bargaining-unit employees in the unit below:

Included: All full-time and regular part-time baristas and shift supervisors employed by the Employer at its store located at 4115 4th Ave. S., Seattle, Washington.

Excluded: All store managers, assistant store managers, office clerical employees, confidential employees, managerial employees, professional employees, and guards and supervisors as defined in the Act.

Dated, Washington, D.C. July 22, 2026

James R. Murphy, Chairman

Scott A. Mayer, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

MEMBER PROUTY, concurring in part and dissenting in part.

Although I concur with my colleagues that the Regional Director properly overruled the Employer's objections in this case, I would affirm the Regional Director's decision to overrule the challenges to the ballots of Jessica Perez and Dan Kavanaugh. Accordingly, I would direct the Re-

gional Director to open and count their ballots and to issue the appropriate certification.

"[T]he Board has adopted mail ballot election procedures, including the use of an identification stub, designed to preserve the integrity of the election process and to ensure that no reasonable doubt is raised about the fairness or validity of that process."¹ In this regard, voters in mail ballot elections are instructed to complete their ballots by marking an "x" in the appropriate box; place their completed ballots in a blue secrecy sleeve; place the blue secrecy sleeve in an outer yellow envelope; and then seal the outer yellow envelope and sign across the sealed envelope flap. The instructions to voters in mail ballot elections also state that voters must not permit any party to collect, handle, or mail their ballots.²

Both Perez and Kavanaugh unequivocally testified that, consistent with these established procedures, they completed, signed, and sealed their mail ballots before delivering them directly to the Regional Office. Kavanaugh gave his ballot directly to a Board agent at the Regional Office, and Perez had her boyfriend drop off the ballot in a receptacle at the Regional Office. There is absolutely no evidence that either ballot was tampered with, left unsecured, or handled by the parties, and both Perez and Kavanaugh testified to their ballot's chain of custody.

Nevertheless, the majority contends that it must sustain the Employer's challenges because Perez and Kavanaugh did not follow the Board's instructions to "mail the ballot immediately," and because the Board's procedures do not expressly contemplate dropping off mail ballots directly at the Regional Office. But there is nothing in the Board's Rules and Regulations, the Board's Casehandling Manual (Part Two) Representation Proceedings, or the election documents in this case (including the Decision and Direction of Election, the Notice of Election, and the instructions to voters in mail-ballot elections) that clearly and explicitly prohibited voters from picking up and/or dropping off mail-ballot kits at the Regional Office, nor is there any Board precedent that speaks directly to this issue.³ Under such circumstances, it can hardly be said that Perez and Kavanaugh acted contrary to any Board policy, pro-

not contact or otherwise communicate with Region 19 about dropping off their ballots at the Regional Office before electing to do so, and no evidence in this case suggests the contrary.

¹ See *Mission Industries*, 283 NLRB 1027, 1027 (1987).

² See *Fessler & Bowman, Inc.*, 341 NLRB 932, 933 (2004) ("[W]e hold that where a party collects or otherwise handles voters' mail ballots, that conduct is objectionable and may be a basis for setting aside the election."); *Professional Transportation, Inc.*, 370 NLRB No. 132, slip. op. at 1 (2021) (prohibiting parties from soliciting—i.e., offering to collect—mail ballots).

³ In *Brink's Armored Car, Inc.*, 278 NLRB 141, 141 (1986), the Board—in the course of expressing disapproval over a voter's plan to have another individual pick up his mail ballot kit at the Regional Office—suggested that a voter could pick up their mail ballot "in person at a Regional Office . . . with proper identification." These statements were, however, dicta, given that the voter's plan was not actually carried out. And, in *General Chemical Co.*, 53 NLRB 1457, 1464 (1943), a hospitalized voter asked his employer's driver to drop off his ballot at the Regional Office, where it was later opened and counted; however, because no party contested the hand-delivered ballot, the Board did not otherwise comment on it.

cedure, or “unambiguous” instructions, as the majority claims.

More importantly, even assuming, wrongly, that Perez and Kavanaugh did deviate from the Board’s instructions to “mail” their ballots, in furtherance of the statutory policy of enfranchising voters, the Board has occasionally excused non-compliance with its election procedures to avoid disenfranchising voters who have otherwise submitted valid ballots. For example, in mail ballot elections, the Board has historically provided a “grace period for receipt of late ballots” that arrive after the deadline but before the ballot count occurs.⁴ And, in both mail and manual elections, if a voter fails to mark their ballot in accordance with certain Board instructions—such as by writing out their vote instead of checking one of the boxes, or by inadvertently including markings that disclose the voter’s identity—the Board will still count that voter’s ballot, as long as the voter has unambiguously expressed their intent.⁵

In short, the inquiry here does not begin and end with the question of whether Perez and Kavanaugh followed the Board’s instructions to the letter; rather, the relevant question is whether there is a sound policy justification for declining to count their ballots. Unlike my colleagues, I see no valid policy reason to disenfranchise two eligible voters who made a good-faith attempt to submit their ballots in a timely manner, especially where (1) they followed the Board’s well-established procedures for completing, sealing, and signing their ballots; and (2) there is no dispute as to the authenticity and integrity of their ballots. I would therefore affirm the Regional Director’s decision to overrule the Employer’s challenges.⁶

I would also overrule the Employer’s objections to the election. In this regard, I concur with the majority that there is no merit to the Employer’s arguments that Region 19 disenfranchised eligible voters, that Region 19 acted in concert with the Petitioner to make special voting arrangements for eligible voters, or that the Petitioner engaged in unlawful ballot harvesting. But more broadly, I do not think that the hand-delivery of mail ballots constitutes objectionable conduct that raises “a reasonable doubt as to the fairness and validity of the election.” *Polymers,*

Inc., 174 NLRB 282, 282 (1969), *enfd.* 414 F.2d 999 (2d Cir. 1969), *cert. denied* 396 U.S. 1010 (1970).

As discussed above, voters who pick up and/or drop off mail-ballot kits at the Regional Office still fill out their mail ballots in accordance with the Board’s general procedures, including using the secrecy sleeve, sealing the envelope, and signing the envelope across the flap. Regional personnel then stamp and secure the ballot kits upon their arrival at the Regional Office, just like any ballot received via mail. Finally, at the ballot count, the Region follows all the relevant mail-ballot procedures for counting and comingling the ballots, including showing the outer yellow envelopes to the parties to check for irregularities, voiding ballots that do not meet the Board’s procedural requirements, and processing any challenges. Taken together, these procedures reduce the risk of tampering, help authenticate the identity of the individual who completed the ballot, and protect voter secrecy, and they do so regardless of whether the ballot travels through the mail or is picked up from and/or delivered into Board custody at the Regional Office.

Put simply, the hand-delivery of mail ballots does not undermine the integrity of a mail ballot election, either in this case or otherwise. Indeed, with respect to state and local elections, almost every state in the country permits voters to drop off a completed mail or absentee ballot at their local election office instead of sending it through the mail.⁷ Thus, contrary to the majority, I would find it generally permissible for voters to pick up and/or drop off mail ballots at the Regional Office in Board-conducted elections.⁸ In the particular circumstances of this case, I would affirm the Regional Director’s decision to overrule the Employer’s objections and challenges, direct the Regional Director to open and count the challenged ballots, and to issue the appropriate certification.

Dated, Washington, D.C. July 22, 2026

David M. Prouty,

Member

⁴ See *Classic Valet Parking, Inc.*, 363 NLRB 249, 249 (2015). I note that this grace period is provided without regard to whether mail delays or employee tardiness in mailing the ballot was responsible for the ballot’s untimely receipt.

⁵ See *Hydro Conduit Corp.*, 260 NLRB 1352, 1352 (1982); *F. Strauss & Son, Inc.*, 195 NLRB 583, 583 fn. 2 (1972).

⁶ My colleagues apparently are not concerned with the disenfranchisement of voters who violated no Board policy, who exercised their rights under the Act, and who acted in good faith to submit their ballots in timely manner. Obviously, I disagree, and I also disagree with the suggestion that this disenfranchisement is necessary in order to preserve

the integrity of the voting process. It would be one thing for my colleagues to clarify the Board’s policies going forward (or to direct the General Counsel to do so); it is quite another to reach back and apply their interpretation to deny these well-meaning employees their right to participate in the Board election process.

⁷ See <https://www.usvotefoundation.org/ballot-return-options>.

⁸ Because the Board does not currently have procedures governing the hand-delivery of mail ballots, I would request that the General Counsel develop consistent, agencywide guidance that affirmatively allows voters to pick up and/or drop off their mail ballot kits at the Regional Office and explains when and how they may do so.

NATIONAL LABOR RELATIONS BOARD