

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**UNITED STATES POSTAL SERVICE**

**and**

**Cases 10-CA-226272  
10-CA-226714  
10-CA-227157  
10-CA-238338  
10-CA-242431**

**NATIONAL ASSOCIATION OF LETTER CARRIERS,  
AFL-CIO, BRANCH 2794**

**DECISION AND ORDER**

Statement of the Cases

On February 26, 2020, the United States Postal Service (the Respondent), National Association of Letter Carriers, AFL-CIO, Branch 2794 (the Union), and the General Counsel of the National Labor Relations Board entered into a Formal Settlement Stipulation, subject to Board approval, providing for the entry of a consent order by the Board and a consent judgment by any appropriate United States Court of Appeals. The Respondent waived all further and other proceedings before the Board to which it may be entitled under the National Labor Relations Act (the Act) and the Board's Rules and Regulations, and the Respondent waived its right to contest the entry of a consent judgment or to receive further notice of the application therefor.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.<sup>1</sup>

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<sup>1</sup> Chairman Ring, who is recused, is a member of the panel but did not participate in this decision on the merits.

In *New Process Steel v. NLRB*, 130 S.Ct. 2635 (2010), the Supreme Court left undisturbed the Board's practice of deciding cases with a two-member quorum when one of the panel members has recused himself. Under the Court's reading of the Act, "the group quorum provision [of Sec. 3(b)] still operates to allow any panel to issue a decision by only two members if one member is disqualified." *New Process Steel*, 130 S. Ct. at 2644. See also, e.g., *D.R. Horton*, 357 NLRB 2277, 2277 n.1 (2012), enfd. in relevant part, 737 F.3d 344, 353 (5th Cir. 2013); *NLRB v. New Vista Nursing and Rehabilitation*, 870 F.3d 113, 127–28 (3d Cir. 2017); *1621 Route 22 West Operating Company*, 357 NLRB 1866, 1866 n.1 (2011), enfd. 725 Fed. Appx. 129, 136 n.7 (3d Cir. 2018).

The Formal Settlement Stipulation is approved and made a part of the record, and the proceeding is transferred to and continued before the Board in Washington, D.C., for the entry of a Decision and Order pursuant to the provisions of the Formal Settlement Stipulation.<sup>2</sup>

Based on the Formal Settlement Stipulation and the entire record, the Board makes the following

### **Findings of Fact**

#### 1. The Respondent's business

The Respondent provides postal services for the United States and operates various facilities throughout the United States in performing that function, including its facility at 1040 Dale Earnhardt Boulevard in Kannapolis, North Carolina. The Board has jurisdiction over the Respondent and this matter by virtue of Section 1209 of the Postal Reorganization Act, 39 U.S.C. § 101 et seq.

#### 2. The labor organization involved

At all material times, the Union has been a labor organization within the meaning of Section 2(5) of the National Labor Relations Act (the Act).

### **ORDER**

Based on the above findings of fact, the Formal Settlement Stipulation, and the entire record, and pursuant to Section 10(c) of the National Labor Relations Act, the National Labor Relations Board orders that the Respondent, United States Postal Service, Kannapolis, North Carolina, its officers, agents, successors, and assigns shall:

#### 1. Cease and desist from the following:

(a) Informing employees or giving employees the impression that filing and processing grievances is futile by telling employees that the Respondent does not care

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<sup>2</sup> We note that the remedy to which the parties have agreed differs in some respects from previous broad orders that the Board has issued against the Respondent in cases alleging that the Respondent has violated Sec. 8(a)(5) of the Act by failing and refusing to provide relevant information. See, e.g., *United States Postal Service*, 345 NLRB 426 (2005), enfd. 486 F.3d 683 (10th Cir. 2007); *United States Postal Service*, 28-CA-017383 et al., unpublished order issued November 4, 2002, enfd. Case 02-9587 (10th Cir. 2003). These broad orders, as enforced by the United States Courts of Appeals, remain in effect, and the Board's approval of this stipulation does not modify these orders in any respect.

what grievance resolutions, including Step B Team grievance decisions, say about bargaining unit employees' terms and conditions of employment.

(b) Telling employees that the Respondent does not have to abide by grievance resolutions, including Step B Team grievance decisions.

(c) Threatening employees in any way because they engaged in protected activities under Section 7 of the Act, or because they filed unfair labor practice charges with the Board, including by threatening to put employees under investigation, threatening employees with OIG investigations, imprisonment, or fines, or making non-specific threats such as telling employees that all charges they were filing were going to catch up with them and cautioning employees that they better watch themselves.

(d) In any like or related manner interfering with, restraining, or coercing employees in the exercise of their rights under the National Labor Relations Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act:

(a) Within 14 days of service by the Region:

- (i) Post at its facility located at 1040 Dale Earnhardt Boulevard in Kannapolis, North Carolina copies of the attached notice marked "Appendix 1."<sup>3</sup> Copies of the notice, on forms provided by the Region, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted.
- (ii) Electronically mail the Board Order and the official notice to all managers and supervisors at the Respondent's facility.
- (iii) The Respondent shall distribute notices electronically, by email, posting on an intranet or internet site, and any other electronic means, if the Respondent customarily communicates with its employees by such means.
- (iv) The Respondent will take reasonable steps to ensure that the notices are not altered, defaced or covered by any other material. In the event, during the pendency of these proceedings, the Respondent closes its facility involved in these proceedings, the Respondent shall

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<sup>3</sup> If this Order is enforced by a judgment of a United States Court of Appeals, the words in the notice providing, "Posted by Order of the National Labor Relations Board" shall instead provide, "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since June 23, 2018.

(b) Within the 60-day Notice posting period, at a meeting or meetings scheduled to ensure the widest possible attendance on each shift, the Respondent's Postmaster Cherald Birch-Davis or, alternatively, a Board agent in the presence of Postmaster Cherald Birch-Davis, will read the notice to employees during worktime and in the presence of a union official and the managers and supervisors at the Respondent's facility in Kannapolis, North Carolina. The reading will take place at a time when the Respondent would customarily hold meetings for employees and must be completed prior to the completion of the 60-day Notice posting period. The dates and times of the reading must be approved by the Regional Director. The announcement of the meeting will be in the same manner the Respondent normally announces meetings and must be approved by the Regional Director.

(c) Within 21 days after service, file with the Regional Director a signed and sworn Certification of Compliance Part I form certifying that it has complied with this Order. The certification shall include a copy of the documents signed by a responsible official attesting to the dates that the notices were received, the dates that the notices were posted, where the notices were posted, and date(s) and time(s) the management official read the Notice to Employees. The certification shall also include the dates the Respondent sent the Board Order and Notice to its managers and supervisors, a list of the names and job titles of the individuals to whom the Respondent sent them, and the method the Respondent employed to send them.

Dated, Washington, D.C., April 13, 2020.

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Marvin E. Kaplan, Member

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William J. Emanuel, Member

(SEAL)

**NATIONAL LABOR RELATIONS BOARD**

## APPENDIX 1

**NOTICE TO EMPLOYEES  
POSTED BY ORDER OF THE  
NATIONAL LABOR RELATIONS BOARD  
An Agency of the United States Government**

**PURSUANT TO A STIPULATION PROVIDING FOR A BOARD ORDER  
AND A CONSENT JUDGMENT OF ANY APPROPRIATE  
UNITED STATES COURT OF APPEALS**

**SECTION 7 OF THE NATIONAL LABOR RELATIONS ACT GIVES YOU THE RIGHT  
TO:**

Form, join, or assist a union;  
Choose a representative to bargain with us on your behalf;  
Act together with other employees for your benefit and protection;  
Choose not to engage in any of these protected activities.

**WE WILL NOT** interfere with, restrain, or coerce you in the exercise of the above rights.

**National Association of Letter Carriers, Branch 2794** (the Union) is the exclusive collective-bargaining representative of those of you in the following appropriate unit:

City Letter Carriers, excluding managerial and supervisory personnel, professional employees, employees engaged in personnel work in other than a purely nonconfidential clerical capacity, security guards as defined in Public Law 91-375, 1201(2), all Postal Inspection Service employees, employees in the supplemental workforce as defined in Article 7, rural letter carriers, mail handlers, maintenance employees, special delivery messengers, motor vehicle employees, and postal clerks.

**WE WILL NOT** inform you, or give you the impression, that filing and processing grievances is futile by telling you that we do not care what grievance resolutions, including Step B Team grievance decisions, say about your terms and conditions of employment.

**WE WILL NOT** tell you that we do not have to follow grievance resolutions, including Step B Team grievance decisions.

**WE WILL NOT** threaten you in any way because you work together with other employees to better your wages, hours, or working conditions, or because you filed charges with the National Labor Relations Board, including by threatening to put you under investigation, threatening you with OIG investigations, imprisonment, or fines, or making unspecified threats such as telling you that all charges you were filing were going to catch up with you and cautioning you that you better watch yourself.

**WE WILL NOT** in any like or related manner interfere with, restrain, or coerce you in the exercise of your rights under the National Labor Relations Act.

**UNITED STATES POSTAL SERVICE**

The Board's decision can be found at [www.nlr.gov/case/10-CA-226272](http://www.nlr.gov/case/10-CA-226272) or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.

