

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

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LEAGUE OF UNITED LATIN AMERICAN  
CITIZENS OF IOWA, and MAJORITY  
FORWARD,

**PETITION FOR JUDICIAL REVIEW OF  
AGENCY ACTION**

Petitioners,

v.

IOWA SECRETARY OF STATE  
PAUL PATE, in his official capacity,

Respondent.

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COME NOW Petitioners League of United Latin American Citizens of Iowa (“LULAC”) and Majority Forward (collectively “Petitioners”) praying for an order staying and setting aside the September 2, 2020, Official Guidance for No-Contact Ballot Delivery (“Drop Box Restrictions” or “Restrictions”) issued by Respondent Iowa Secretary of State Paul Pate (the “Secretary”), who is being sued in his official capacity, on the grounds that the Restrictions were issued in violation of the Iowa Constitution, Iowa Code § 53.8 and § 53.17, and the Iowa Administrative Procedure Act, § 17A.19:

**NATURE OF THE AGENCY ACTION**

1. In an election year that will be like no other due to a nationwide pandemic and historic delays in mail service, the Secretary has taken steps to make returning absentee ballots for Iowans even more difficult. After county auditors began exploring the use of, and in one case installing, drop boxes for voters to return absentee ballots in convenient locations throughout their communities, the Secretary first indicated in an election training that drop boxes would not be allowed. In the face of criticism and confusion over this pronouncement and given that auditors had used drop boxes in prior elections, the Secretary issued written guidance providing that drop

boxes may be deployed but only at county auditors' offices or on county property immediately surrounding those offices. The Restrictions, severely limiting the locations of drop boxes, are not grounded in any Iowa statute (indeed, they contravene statutes governing the manner in which ballots may be returned) and impermissibly burden the right of Iowans to vote in the upcoming election, especially those who live in rural areas and/or who receive their absentee ballots without sufficient time to return them using the mail.

2. The Restrictions interfere with each county's "home rule authority," under the Iowa Constitution. In 1978, the Iowa Constitution was amended to endow counties with home rule authority. Iowa Const. art. III, § 39A. Iowa Code § 331.301(1) outlines the scope of a county's power under home rule:

A county may, except as expressly limited by the Constitution of the State of Iowa, and if not inconsistent with the laws of the general assembly, exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges, and property of the county or of its residents, and to preserve and improve the peace, safety, health, welfare, comfort, and convenience of its residents.

"The goal of this amendment was to grant counties 'power to rule their local affairs and government subject to the superior authority of the general assembly.'" *Goodell v. Humboldt Cnty.*, 575 N.W.2d 486, 492 (Iowa 1998).

3. The ability to establish and operate drop box systems falls squarely within counties' home rule authority to "[c]onduct all elections" and protect the "rights . . . safety, health . . . and convenience" of the counties' residents. Iowa Const. art. III, § 39A; Iowa Code §§ 333.301(1), 331.505(2). Counties have regularly used drop boxes to collect absentee ballots, without concerns or issues. And counties' home rule authority—including their authority to establish and operate drop box systems—is particularly important during a pandemic as each county auditor understands the unique circumstances of their residents, how they are being impacted by the pandemic as well as the impacts of local delays in mail delivery.

4. The Secretary was thus not authorized to impose the Restrictions and they should be invalidated.

5. This petition for review challenges the legality of the Drop Box Restrictions, which are an agency action as defined by Iowa Code § 17A.2(2).

### **FACTUAL ALLEGATIONS**

#### **A. COVID-19 is causing an enormous uptick in absentee voting and imposing unprecedented burdens on voters and elections officials alike.**

6. The novel coronavirus (“COVID-19”) has upended life across Iowa and the United States. Recognizing the serious risks of irreparable harm that forcing voters to potentially expose themselves to the virus by voting in-person could cause, the Secretary strongly urged Iowans to vote absentee in the June 2, 2020, primary (the “June Primary”). The Secretary himself sent out absentee ballot request forms to all active Iowa voters.

7. In total, more than 79% of votes were cast by absentee ballot in the June Primary—nearly twice the absentee voter turnout as compared to any past statewide election. For comparison, 21.2% of votes in Iowa were cast by absentee ballot during the 2000 general election, 41.3% of votes were cast by absentee ballot in the 2016 general election, and 40.5% of votes were cast by absentee ballot in the 2018 general election. The November election, which will be a general election in a presidential election year—the type of election which historically sees higher turnout than all others—is anticipated to see an even greater surge in Iowa voters seeking to participate, and because of the virus, extraordinary numbers of them will vote absentee.

8. Since the June Primary, the pandemic has gotten much worse in Iowa. As of September 10, Iowa reported over 72,000 individuals who have tested positive for COVID-19,

with over 1,000 residents dying from the virus.<sup>1</sup> Since early July, the average new case count has hovered around 500 residents. August 26 alone saw 1,258 new cases reported in Iowa. *One out of every 51* Iowa residents have now tested positive for COVID-19.

9. The Centers for Disease Control and Prevention warns that the pandemic will continue into November—and that a second, more devastating wave is likely to coincide with the flu season and therefore with the general election.<sup>2</sup>

10. Thus, elections officials across the state are planning for a November election that sees vast and expansive increases in the number of voters seeking to exercise their right to vote absentee to avoid contracting, or inadvertently spreading, the virus.

11. Iowa voters may return absentee ballots by: (1) returning or having their designee return the ballot to the commissioner by the time the polls close on election day, or (2) returning or having their designee return the ballot via mail by the day before the election and be received by the commissioner not later than noon the Monday following the election. Iowa Code § 53.17.

12. For many years, Iowa voters in multiple counties have been allowed and encouraged to deliver their absentee ballots to drop boxes administered by county auditors.

13. Many Iowa voters have used drop boxes.

14. Despite the longstanding use of drop boxes in Iowa, to Petitioner's knowledge, there have been no reports of security breaches, voter fraud, or any other issues that could undermine the integrity of the election.

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<sup>1</sup> See COVID-19 Cases in the U.S., CDC, <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html> (last accessed Sept. 14, 2020); COVID-19 in Iowa: Summary Statistics, Iowa Department of Public Health, <https://coronavirus.iowa.gov/#CurrentStatus> (last accessed Sept. 14, 2020).

<sup>2</sup> Mandy Oaklander, *The coronavirus plus the flu could equal a devastating fall and winter, CDC director says*, TIME (Jun. 29, 2020), <https://time.com/5860066/coronavirus-flu-cdc-director/>.

15. The Secretary has indicated that “absentee ballots will begin being mailed on October 5, 2020.”<sup>3</sup>

**B. The U.S. Postal Service is experiencing mail delivery delays.**

16. On May 29, 2020 the U.S. Postal Service (“USPS”) sent a letter to local and state election officials highlighting key aspects of election mail delivery processes. In the letter, the USPS stated it “cannot guarantee a specific delivery date or alter standards to comport with individual state election laws.”<sup>4</sup> As such, USPS recommends “voters should mail their return ballots at least 1 week prior to the due date established by state law.”<sup>5</sup>

17. On July 31, 2020, USPS sent a follow up letter, specifically to the Secretary, highlighting key issues under Iowa’s election laws.<sup>6</sup> The letter provided recommended timelines to avoid ballots not being returned in time to be eligible to be counted.<sup>7</sup> It also noted, however, that “[u]nder our reading of your state’s election laws . . . certain state-law requirements and deadlines appear to be incompatible with the Postal Service’s delivery standards and the recommended timeframe above. As a result, to the extent the mail is used to transmit ballots to and from voters, there is a risk that, at least in certain circumstances, ballots may be requested in a manner that is consistent with your election rules and returned promptly, and yet not be returned in time to be counted.”<sup>8</sup>

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<sup>3</sup> See Secretary of State, Track Your Absentee Ballot (last accessed Sept. 14, 2020) (emphasis in original), <https://sos.iowa.gov/elections/absenteeballotstatus/absentee/search>.

<sup>4</sup> Letter from Thomas J. Marshall (May 29, 2020), <https://about.usps.com/newsroom/national-releases/2020/2020-05-29-marshall-to-election-officials-re-election-mail.pdf>.

<sup>5</sup> *Id.*

<sup>6</sup> Letter from Thomas J. Marshall (July 31, 2020), <https://about.usps.com/who/legal/foia/documents/election-mail/election-mail-2020-pages-76-100.pdf>.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

18. On August 15, 2020 the Associated Press published an article stating the “U.S. Postal Service is warning states coast to coast that it cannot guarantee all ballots cast by mail for the November election will arrive in time to be counted, even if mailed by state deadlines.”<sup>9</sup>

19. Indeed, in recent primaries around the country, the USPS has struggled to timely deliver election mail in the pandemic.<sup>10</sup>

**C. Auditors plan to set up community drop boxes to make it easier for voters to return absentee ballots.**

20. In July, Linn County Auditor, Joel Miller announced plans to place ballot drop boxes in his community.

21. Mr. Miller installed two ballot drop boxes at grocery stores in Cedar Rapids and one ballot box at a grocery store in Marion.

22. Mr. Miller stated: “We basically wanted to get these drop boxes out into other locations in the community that were convenient, and nothing is more convenient than a grocery store.”<sup>11</sup> “Miller says the three major reasons they decided to install [the ballot boxes] were convenience, lowering postage costs, and because some voters don’t trust the mail system.”<sup>12</sup>

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<sup>9</sup> Brian Slodysko & Amy Beth Hanson, *Post Office warns states across US about mail voting*, ASSOCIATED PRESS (Aug. 15, 2020), <https://apnews.com/32700a8b49ddf5f7594d2271eb033c2e>.

<sup>10</sup> See, e.g., Lissandra Villa, *After a Chaotic Primary, New York Scrambles to Reset for the 2020 Election*, TIME (Aug. 1, 2020), <https://time.com/5874571/new-york-state-general-election/>, (discussing issues with New York’s primary); U.S. Postal Service Office of the Inspector General, Report 20–235–R20 (July 7, 2020), available at <https://www.uspsoidg.gov/sites/default/files/document-library-files/2020/20-235-R20.pdf> (highlighting issues with Wisconsin primary due to the COVID-19–related increase in the number of voters who choose to vote by mail); Jennifer Friedmann et al., *Ohio’s 2020 Elections in the Wake of COVID-19*, LAWFARE (Aug. 6, 2020), <https://www.lawfareblog.com/ohios-2020-elections-wake-covid-19> (outlining issues with Ohio’s primary); Nathaniel Rakich & Geoffrey Skelley, *Georgia Was a Mess. Here’s What Else We Know About the June 9 Elections.*, FIVETHIRTYEIGHT (June 10, 2020), <https://fivethirtyeight.com/features/georgia-was-a-mess-heres-what-else-we-know-about-the-june-9-elections/> (discussing issues with Georgia’s June 9 primary, as well as other June 9 primaries).

<sup>11</sup> Michael Howell, *New absentee ballot boxes placed outside local Hy-Vee stores*, IOWA’S NEWS NOW (July 21, 2020), <https://cbs2iowa.com/news/local/new-absentee-ballot-boxes-placed-outside-local-hy-vee-stores>.

<sup>12</sup> *Id.*

23. Backed by Linn County supervisors, Mr. Miller designated these drop boxes as county-provided accessories of the auditor's office.

24. Given the above, Mr. Miller has been telling Linn County voters that they will be able to use drop boxes in the community to cast ballots in the 2020 general election.

25. On information and belief, prior to the issuance of the Restrictions, auditors in other counties had plans to deploy drop boxes at locations within their communities.

### **AGENCY ACTION CHALLENGED**

26. On or around August 19, 2020, the Secretary told county election officials in an election administration training that "Drop Boxes [Are] Not Permitted" for absentee voting, citing Iowa Code § 53.8(2)(a) and § 53.17(1). The Secretary said that "a County Auditor does not have the authority to establish drop box system[s] in their county."

27. After widespread dissent and confusion, the Secretary announced that he would issue written guidance to clarify his position on drop boxes.

28. On September 2, 2020, the Secretary issued the Drop Box Restrictions. The Restrictions are the Secretary's "official guidance related to no-contact ballot delivery systems for voted absentee ballots." A copy of the Drop Box Restrictions is attached as Exhibit A to this Petition.

29. The Restrictions define a "County Auditor's Office" as "the location where voters may receive services pursuant to Iowa Code §§48A.17, 50.20, 53.10 and 53.18." Restrictions § 1. The Restrictions do not cite any statutory authority supporting this definition.

30. Using this narrow definition of "County Auditor's Office," the Drop Box Restrictions limit where county auditors can place drop boxes. Specifically, the Restrictions provide that "[a] County Auditor may develop a no-contact ballot delivery system option located

at their office, as defined above, or on county owned and maintained property directly surrounding the building where their office is located.” Restrictions § 2.

31. The Drop Box Restrictions do not allow county auditors to place drop boxes in areas other than their offices or on county property immediately surrounding their offices to make it easier and more convenient for voters to drop off their absentee ballots in a no-contact manner.

32. Prior to the issuance of the Restrictions, at least one county auditor, in Linn County, had plans to, and had in fact, deployed drop boxes at locations within his community.

33. On information and belief, prior to the issuance of the Restrictions, auditors in other counties had plans to deploy drop boxes at locations within their communities other than their offices or on county property surrounding their offices.

34. The Secretary lacks the authority to issue the Restrictions, to regulate county-administered drop boxes, or to prohibit county auditors from setting up off-site drop boxes. Iowa Code § 47.1 authorizes the Secretary to “adopt rules . . . pursuant to Chapter 17A” to fulfill his responsibility to prescribe “uniform election practices and procedures.” They do not, however, authorize the Secretary to issue immediately binding and enforceable mandates on this topic. The Drop Box Restrictions are not a rule adopted pursuant to Chapter 17A and so cannot be enforced pursuant to Iowa Code § 47.1.

35. The Drop Box Restrictions also contravene Iowa Code § 53.8 and § 53.17. Those statutes grant voters the right to return absentee ballots to drop boxes, wherever they might be located, either because the drop boxes are part of the “commissioner’s [i.e., the county auditor’s] office” or because they are the “voter’s designee” for returning their absentee ballot.

36. Before August 19, 2020, the Secretary had never challenged the legality of ballot drop boxes or taken action to limit their use.

37. Ballot drop boxes allow voters a contactless means to return their absentee ballots without relying on the USPS, which is experiencing delays in mail service. They are uniquely important and valuable in the midst of a global pandemic.

38. Given the pandemic and attendant health risks of in person voting, as well as the well-publicized delays in mail delivery, it is likely many more voters are planning to use drop boxes in the upcoming election.

39. County auditors have used drop boxes in past elections.

40. Despite this prior use in Iowa, to Petitioners' knowledge, there have been no reports of security breaches, voter fraud, or any other issues that could undermine the integrity of the election.

41. The Drop Box Restrictions have prejudiced Petitioners' substantial rights. If the Restrictions stand, Petitioners will have to divert resources to educate voters regarding the limited locations where ballots will be accepted, especially those voters who receive their ballots late due to postal service delays and who might not be able to make the applicable deadlines for returning their absentee ballot using the USPS given delays in the delivery of mail.

42. Petitioners bring this petition to have the Secretary's Drop Box Restrictions declared unlawful and thereby prevent the potential widespread disenfranchisement caused by the Secretary's erroneous interpretation of Iowa law; his ultra vires, unreasonable, irrational, arbitrary, and capricious actions; and his illegal rulemaking.

### **PARTIES**

43. Petitioner League of United Latin American Citizens of Iowa ("LULAC") has its business address at 2463 E. Highview Dr., Des Moines, Iowa, 50320. LULAC has approximately 150,000 members throughout the United States and Puerto Rico, and more than 600 members in

Iowa. It is the largest and oldest Latinx civil rights organization in the United States. In Iowa, LULAC is comprised of 22 councils located throughout the state. LULAC's members and constituents include voting-age Latinos who are more likely than other members of the electorate to be burdened—and in some instances prevented entirely from being able to timely return their absentee ballot—by the Secretary's Drop Box Restrictions. LULAC will need to divert resources and attention to deal with the adverse impacts the Drop Box Restrictions will have on its members and constituents, and to assist them in attempting to surmount the barriers to voting imposed by the Restrictions. Because of the Restrictions, LULAC has suffered and will continue to suffer substantial prejudice.

44. Petitioner Majority Forward is a not-for-profit 501(c)(4) organization created to support voter registration and voter turnout efforts. Its primary mission is to encourage full participation by voters in our election process. Majority Forward has made, and will continue to make, contributions and expenditures in the millions of dollars to educate, mobilize, and turn out voters in the upcoming federal elections around the country, including in Iowa. Majority Forward's funds help to pay for organizers on the ground in Iowa. These organizers will work with local activists and organizations on projects designed to engage activists and voters in the political process. Majority Forward will need to divert resources and attention to deal with the adverse impacts the Drop Box Restrictions will have on voters. Because of the Restrictions, Majority Forward has suffered and will continue to suffer substantial prejudice.

45. Respondent Paul Pate is the Iowa Secretary of State and is named in his official capacity.

## **JURISDICTION, VENUE, AND EXHAUSTION**

46. Pursuant to Iowa Code § 17A.19, this Court has exclusive jurisdiction for Petitioners to seek judicial review of the lawfulness of the Secretary's Restrictions, which are an "agency action" as defined in Iowa Code § 17A.2(2). Venue is appropriate in Polk County pursuant to Iowa Code § 17A.19(2).

47. Petitioners do not need to exhaust administrative remedies because they would suffer "irreparable injury resulting from following the administrative process." *Salsbury Labs. v. Iowa Dep't of Env'tl. Quality*, 276 N.W.2d 830, 837 (Iowa 1979). This action involves potential disenfranchisement, through no fault of the voter, in an election that is just around the corner. The Iowa Constitution protects the "right of suffrage," see Art. II, § 1, and that right would be lost if the Petitioners were forced to delay this lawsuit. Nor would monetary damages provide Petitioners an adequate remedy for the loss of their voting rights. See *Riley v. Boxa*, 542 N.W.2d 519, 521 (Iowa 1996). Exhaustion is also futile, as evidenced by the fact that the Secretary issued the Restrictions in response to criticism from county auditors regarding the Secretary's comments on drop box placement.

## **GROUND FOR RELIEF**

48. The Secretary's Restrictions are an "agency action" within the meaning of Chapter 17A of the Iowa code, but they were adopted in a procedurally deficient manner, are based on an erroneous interpretation of Iowa Code § 53.8(2) and § 53.17, are unconstitutional, and violate multiple provisions of Iowa Code § 17A.19.

49. The process by which the Secretary issued the Restrictions is subject to Iowa Code § 17A.4's rulemaking procedures, including the period of notice and comment. The Secretary

failed to comply with these required procedures. Indeed, the Secretary failed to even attempt to comply with those requirements.

50. To the extent the Restrictions are based on the Secretary's interpretation of Iowa Code § 53.8(2) and § 53.17, that interpretation is erroneous. Those sections give registered voters the power to deliver completed absentee ballots "to the commissioner's office." The statutes do not define "commissioner's office," and they certainly do not exclude off-site drop boxes as extensions of or part of the "commissioner's office."

51. County auditors have authority to deploy drop boxes in their communities and treat them as part of the "commissioner's office."

52. Drop boxes have been used to collect absentee ballots for at least fifteen years in Iowa and, while the precise contours of drop box systems vary by county, to Petitioner's knowledge, there have been no reports of voter fraud or security issues associated with their use.

53. Voters have the right to use drop boxes that are part of the "commissioner's office" to deliver their absentee ballots to insure those ballots are timely received and not subject to mail delays.

54. The legislature has not outlawed drop boxes, much less granted the Secretary the authority to prevent counties from establishing off-site drop boxes or to prevent registered voters from using them.

55. Further, even if drop boxes located in the community are not part of the commissioner's office, they are lawful as the "voter's designee" for delivering ballots under Iowa Code § 53.8(2) and § 53.17. The statutes allow the voter to identify a "designee" to "deliver" a "sealed return envelope . . . to the commissioner's office" within the time set by statute. When

voters use the drop box, the drop box (and the individuals collecting the ballots on the commissioner's behalf) become the "voter's designee" under the statutes.

56. The Secretary's interpretation of the law is incorrect, and it interferes with voters' rights to select their "designee" for returning absentee ballots. *See* Iowa Const. art. II, § 1; Iowa Code § 53.17.

57. The Secretary's interpretation of § 53.8(2) and § 53.17 also unconstitutionally intrudes on the counties' home rule authority. Iowa counties have authority to "preserve and improve the peace, safety, health, welfare, comfort, and convenience of its residents" unless such action would be inconsistent "with the laws of the general assembly." Iowa Const. art. III, § 39A; Iowa Code § 331.301(1). Statutes implementing Iowa's county home rule expressly designate the county auditor to serve as the county commissioner of elections and to conduct all elections held within the county. Iowa Code § 331.505(1) and (2). Off-site drop boxes are well within counties' home rule authority.

58. Accordingly, the Restrictions must be set aside because they are in violation of multiple subsections of Iowa Code § 17A.19, including but not limited to Iowa Code §§ 17A.19(10)(a) ("Unconstitutional on its face or as applied or is based upon a provision of law that is unconstitutional on its face or as applied."), 17A.19(10)(b) ("Beyond the authority delegated to the agency by any provision of law or in violation of any provision of law"), 17A.19(10)(c) ("Based upon an erroneous interpretation of a provision of law whose interpretation has not clearly been vested by a provision of law in the discretion of the agency."), 17A.19(10)(d) ("Based upon a procedure or decision-making process prohibited by law or was taken without following the prescribed procedure or decision-making process."), 17A.19(10)(i) ("The product of reasoning that is so illogical as to render it wholly irrational"), 17A.19(10)(j) ("The product of a decision-making

process in which the agency did not consider a relevant and important matter relating to the propriety or desirability of the action in question that a rational decision maker in similar circumstances would have considered prior to taking that action.”), and 17A.19(10)(n) (“Otherwise unreasonable, arbitrary, capricious, or an abuse of discretion.”).

### **RELIEF SOUGHT**

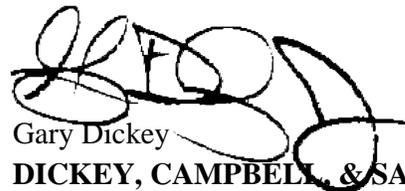
59. WHEREFORE, Petitioners respectfully request that this Court enter the following relief against the Respondent:

- A. Entering a temporary and permanent injunction requiring the Secretary to withdraw the Restrictions and to immediately inform all auditors that, to the extent the Restrictions forbid them from establishing drop boxes in locations other than those identified by the Restrictions, they are withdrawn and cannot be given any effect;
- B. An order entering a stay of the Restrictions during the pendency of judicial review;
- C. An order declaring that voters returning absentee ballots can use drop boxes located in the community, in addition to boxes located at, or adjacent to, county auditor’s offices, administered by county election officials to deliver their absentee ballots;
- D. An order declaring that the Secretary did not have the authority to issue the Restrictions;
- E. An order declaring that the Secretary did not follow APA requirements in issuing the Restrictions;
- F. An order that the Restrictions are arbitrary and capricious;

- G. An order enjoining the Secretary, his respective agents, officers, employees, and successors, and all persons acting in concert with each or any of them from implementing, enforcing, or giving any effect to the Restrictions;
- H. An order awarding Petitioners their costs, disbursements, and reasonable attorneys' fees incurred in bringing this action; and
- I. Such other and further relief as the Court deems just and proper.

Dated: September 14, 2020

Respectfully submitted



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OFFICE OF THE IOWA SECRETARY OF STATE

September 2, 2020

**Official Guidance: No-Contact Ballot Delivery**

Iowa Code §§ 53.8 and 53.17 provide Iowa voters with 4 ways in which their voted absentee ballot can be returned to the correct County Auditor's Office:

1. The voter may return their voted ballot via the USPS
2. The voter's designee may return the voted ballot via USPS
3. The voter may personally deliver their voted ballot to the County Auditor's Office
4. The voter's designee may personally deliver the voted ballot to the County Auditor's Office

Recognizing that some voters may desire to personally deliver their voted ballot to their County Auditor's Office in a no-contact manner, the Secretary of State's Office is issuing the following official guidance related to no-contact ballot delivery systems for voted absentee ballots:

1. The County Auditor's Office is the location where voters may receive services pursuant to Iowa Code §§48A.17, 50.20, 53.10 and 53.18.
2. A County Auditor may develop a no-contact ballot delivery system option located at their office, as defined above, or on county owned and maintained property directly surrounding the building where their office is located.
  - It is recommended that the no-contact ballot delivery system be limited to the collection of election materials.
  - If the no-contact ballot delivery system is a multi-use system, only the County Auditor or individuals employed by the County Auditor shall have access.
3. County Auditors must take all reasonable and necessary steps to ensure the accessibility and security of the no-contact ballot delivery system.
  - Such security measures may include placing the system within the regular sight of the County Auditor or their staff, monitoring the system with a video security system, or establishing some other type of monitoring system.
  - A video security surveillance system may include existing systems in the building where the County Auditor's Office is located.
  - If utilized, the video security surveillance system should create a recording, which can be reviewed by the County Auditor and law enforcement in the event misconduct occurs.

4. The no-contact ballot delivery system shall be available when the County Auditor's Office is open and staffed. If the no-contact ballot delivery system is available to voters during hours when the County Auditor's Office is closed, the County Auditor must take all steps necessary to ensure that the system is always secure and monitored.
5. The no-contact ballot delivery system shall be securely fastened to a stationary surface or to an immovable object.
6. The no-contact ballot delivery systems shall be secured by a lock and may include a tamper-evident seal. Only the County Auditor or individuals employed by the County Auditor shall have access to the keys and/or combination of the lock.
7. Materials delivered via the no-contact ballot delivery system shall be retrieved by the County Auditor or an individual employed by the County Auditor in an expeditious manner, but not less than once per 24-hour period.
8. The County Auditor's Office shall maintain a log of each time election materials are retrieved from the no-contact ballot delivery system, including date, time and the staff member who retrieved the materials.
9. On Election Day, the no-contact ballot delivery system shall be emptied at the time polls close. A record shall be kept, including the date, time and staff member who retrieved the materials, to memorialize that absentee ballots were delivered timely. Any ballots retrieved at the time polls close shall be immediately delivered to the Absentee and Special Voters Precinct Board for review and tabulation.
10. All elections materials received via a no-contact ballot delivery system shall be processed in the same manner as election materials delivered directly to an individual employed by the County Auditor's Office in a traditional hand to hand delivery.