

PAUL D. PATE
SECRETARY OF STATE



LUCAS BUILDING
DES MOINES, IOWA 50319

OFFICE OF THE IOWA SECRETARY OF STATE

February 1, 2021

Joel Miller
Commissioner of Elections
Linn County
935 2nd St. SW
Cedar Rapids, IA 52404-2100

Dear Commissioner Miller,

In a tweet sent on November 4, 2020 at 9:47 AM CST, you stated in relevant part, "In @LinnCounty ballots postmarked [not later than] 11/2 or dropped in our Dropbox by 9pm on 11/3 will be counted by ASVP Board thru Noon on 11/9."

As you are aware, Iowa Code §53.23 requires that on election day, the auditor shall set a time for the Absentee and Special Voters Precinct (ASVP) Board to meet, allowing a reasonable amount of time to complete counting by 10 p.m. of all absentee ballots received before the polls close. Therefore, all absentee ballots that were dropped in your secure, no contact ballot delivery system by 9:00 PM on election day should have been immediately reviewed by your ASVP Board on election night and included in your election night results tabulation.

The law recognizes that election officials and indeed all-public officials may occasionally err, but based on your public statements regarding the timely counting of absentee ballots, it is clear that you were aware of the requirement that your ASVP Board count all absentee ballots received before the close of polls on election day by 10:00 PM.

For this reason, we regretfully issue to you this letter as an official **NOTICE OF TECHNICAL INFRACTION AND LETTER OF INSTRUCTION** pursuant to Iowa Code section 39A.6.

As a remedy to ensure a similar technical infraction does not occur in future elections, we would recommend that you put a procedure in place to ensure the Linn County Auditor's Office employee responsible for closing your no contact ballot delivery system at the time polls close also immediately delivers any ballots received at that time to your ASVP Board for review and counting.

We would welcome the opportunity to work with you and your staff on training methods and best practices to prevent future violations of Iowa law.

Sincerely,

A handwritten signature in blue ink, appearing to read "M. Ross", with a long, sweeping horizontal stroke extending to the right.

Michael Ross
Deputy Secretary of State