

Wyoming Secretary of State

Chuck Gray



June 5, 2024

Via E-Mail and Mail

Re: Use of Drop Boxes in 2024 Election

Dear County Clerks:

As Wyoming's 23 county clerks continue to prepare for the 2024 Election and the absentee voting period approaches, I am writing to again express my strong disagreement with the use of unattended ballot drop boxes as a means of absentee voting in Wyoming. Given the differing interpretations of my predecessors' support for drop boxes, I want to be unequivocally clear: I do **not** believe drop boxes represent a safe, secure, or statutory basis for absentee voting. For this reason, they should **not** be used in the 2024 Election and beyond.

First, I do not believe unattended drop boxes are a statutorily prescribed means of delivering an absentee ballot. Laws governing return of absentee ballots are crucial for the integrity of the early voting process. Wyoming law authorizes specific methods by which qualified electors may return a completed absentee ballot. Specifically, W.S. 22-9-113 provides that completed absentee ballots shall be "mailed or delivered to the clerk." The plain language of the statute, which strikes a balance between allowing voters to conveniently cast their votes and maintaining the security and integrity of the early voting process, does not authorize delivery of an absentee ballot to an inanimate object, such as an unstaffed ballot drop box. This strained and incorrect interpretation of the law allowing unattended ballot drop boxes was a result of the government's flawed response to COVID-19. The directives were issued by my predecessor during a declared state of emergency that no longer exists and that has long ago expired. It is paramount that we return to following the plain meaning of W.S. 22-9-113. Secretary Buchanan's Directives 2020-01, 2020-02 (original and amended), 2020-03, 2020-05, 2020-06, and 2020-07 were to be rescinded as soon as the declared states of emergency related to COVID-19 were rescinded. It's reasonable to assume these have been expired. However, out of an abundance of clarity, I am explicitly rescinding these directives now.

Consistent interpretation of the Election Code, not interpretation based on reaching a preset conclusion, is pivotal. In fact, Title 22 requires uniformity in its interpretation. Using the very interpretive methods used by the county clerks in your memo dated January 8, 2024 to me, drop boxes should not be allowed. This memo regarding our office's rule to provide proof of citizenship and residency justified CCAW's opposition to the rulemaking using the argument that "legislative clarity has not been achieved." While I strongly disagree in that specific case that "legislative clarity has not been achieved" (in fact, W.S. 22-1-102(a)(xxvii) requires the rule), by your own premises within the memo, the lack of any "legislative clarity" at all for drop boxes means that they should not be used - period.

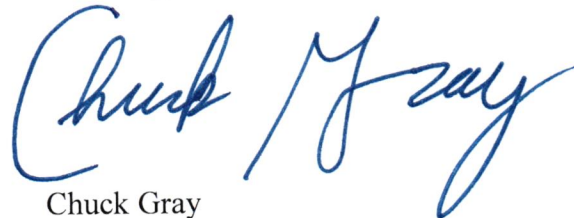
As I have consistently said, I also remain concerned about the safety and security of unattended ballot drop boxes. Physical delivery to the county clerk's office or staffed polling place provides comprehensive assurance of delivery of a ballot. Likewise, the use of the postal system, while not ideal, has an enforcement arm, the United States Postal Inspection Service, which is dedicated to investigating irregularities in delivery. By comparison, unattended and unstaffed ballot drop boxes are especially vulnerable in terms of physical safety.

For this reason, and many others, the majority of county clerks have opted not to use ballot drop boxes in past election cycles. This is telling in and of itself. But it also raises further legal evidence for why drop boxes are **not** allowed in statute. The Election Code requires uniformity in its application, and the fact that a few counties are deviating from the uniform, clear application of Title 22 is also problematic.

Most importantly, I do not believe the people of Wyoming want ballot drop boxes in our state. I have received countless phone calls, emails, and walk-ins regarding Wyomingites' concerns with ballot drop boxes. Instead of writing off the public's fears and using worn out mainstream media-driven slogans like "misinformation," I believe you should listen to their concerns. Listening is paramount to election integrity.

As Wyoming Secretary of State, I remain committed to preserving the integrity and confidence in Wyoming's elections. I remain convinced that the use of unstaffed and unattended ballot drop boxes is not best for our state and lacks statutory authorization, and I am vehemently opposed to their use.

Sincerely,

A handwritten signature in blue ink that reads "Chuck Gray". The signature is fluid and cursive, with the first name "Chuck" and the last name "Gray" clearly legible.

Chuck Gray
Wyoming Secretary of State