

# COREY STAPLETON

SECRETARY OF STATE



STATE OF MONTANA

## Election Directive #01-19\*

Issued: March 15, 2019, Revised 05/20/2020

**TOPIC: Implementation of the Montana Ballot Interference Prevention Act  
(Mont. Code Ann. § 13-35-701 et seq.)**

**Note:** Enforcement of the Ballot Interference Protection Act is currently enjoined.

### **AUTHORITY:**

Pursuant to Mont. Code Ann. § 13-1-202(1)(a) and (b), the Secretary of State has the authority to issue written directives and instructions related to and based on election laws, to provide uniformity in the election process, and to provide forms.

The following is meant to provide guidance and uniformity on multiple scenarios that may occur regarding the handling of ballots and form as prescribed in Mont. Code Ann. § 13-35-701.

*\*This directive has been jointly issued by the Secretary of State and the Commissioner of Political Practices (COPP), Policy 5.0.*

### **OVERVIEW:**

Legislative Referendum 129 was approved in the November 2018 General Election. This referendum added the [Montana Ballot Interference Prevention Act](#) as Part 7 under Title 13, Chapter 35. The Act limits who can collect and convey a ballot belonging to another person.

Individuals authorized to collect ballots must be a caregiver, a family member, a household member, or an acquaintance and it requires those who convey another person's ballot to sign a registry when delivering the ballot to a polling place, a place of deposit, or the election administrator's office. It also sets a \$500 penalty for each ballot unlawfully collected.

Investigations and enforcement of the Act are the responsibility of COPP in conjunction with the county attorneys. See Mont. Code Ann. § [13-37-111\(1\)](#).

County election administrators will need to establish processes to provide the registry for ballot collectors to sign when delivering ballots. A process is provided below, and a form to use for the registry is provided as Attachment A to this directive.

## **PROCESS:**

Election administrators will collect and store the information provided by each ballot collector on the prescribed form, Attachment A. Election administrators will store the information first by election, and then alphabetically by each ballot collector's last name. The individual forms will become individual pages of the registry. Election administrators will send copies of collected forms to COPP on a weekly basis starting when absentee ballots are available. Transmission to COPP may be done via electronic means or by mail. Election administrators will retain the original forms in the registry per their county records retention schedule for election records.

The ballot collection registry is per election. If a county is running two concurrent elections, election officials should ensure that the right registry form is signed by the person conveying ballots.

## **QUESTIONS:**

Q: What is the enforcement responsibility of the local election official?

A: Enforcement and investigations of violations of the law are the responsibility of COPP in conjunction with local law enforcement. If an official becomes aware of anything that appears to be a violation, he or she should report it in writing to COPP with as much detail as possible.

Q: Do election officials need to confirm the identity of the ballot collector using ID?

A: No, confirming the identify of a ballot collector is not required by statute.

Q: Do election officials need to confirm the data and enforce the completeness of the form?

A: No, election officials are not responsible for enforcing the statute. Election officials should discuss the required information with the person signing the registry. If a person insists on turning in an incomplete form or providing information the official knows is not correct, the official should still accept the form and ballots and let COPP determine whether any enforcement action is required.

Q: Can election officials reject ballots conveyed to them in violation of the six-ballot restriction, where the ballot conveyer doesn't sign the registry, or the ballots are simply dropped off with the person just leaving the office?

A: No, election officials should accept the ballots that are conveyed to them. They should process them the same way as ballots otherwise submitted to their office. They should report such apparent violations to COPP to investigate.

Q: Is the six-ballot restriction cumulative?

A: No, the six-ballot restriction is per election per person. A person may collect and convey up to six ballots per election.

Q: Do election officials need to provide a registry for places of deposit?

A: Yes, a registry needs to be provided when ballots are submitted at place of deposit, the election administrator's office, or a polling place.

Q: Do election officials need to post information about the ballot collection restrictions?

A: This is not required under statute; however, we do suggest that counties consider posting this information at any drop box and other appropriate places.

Q: For school elections and people dropping ballots of at a principal's office, can the principal deliver those ballots back to the school district or county election office?

A: No, the exception is if the principal is a designated election official. Otherwise, a principal may only collect six ballots before the limitation is exceeded.

Q: Does the six ballot limit include the collector's ballot?

A: No, you may deliver your own ballot plus up to six others that meet the authorization requirement. It is not necessary to complete a form to deliver your own ballot.

Q: Are Election Judges considered to be Election Officials which allows them to convey more than six ballots?

A: Yes, Election Judges that are performing their duties within the scope specified by law and under the direction of the Election Administrator or Chief Judge can collect and convey ballots.

Q: If I am appointed as an Election Judge in one County, can I collect and convey ballots without restriction in another County?

A: No, the duties and appointment to be an Election Judge is specific to a county and for the elections held in that county.

Q: If I am an Election Judge can I collect and convey ballots on my own?

A: No, you may only collect and convey ballots if you are assigned that duty by the Election Administrator or Chief Judge.

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