

Midterms 2022: The Poll Observer Landscape | **Kentucky**

Poll observers — members of the public permitted to monitor conduct at polling places — are a feature of elections in nearly every state. They add a degree of transparency in the electoral process that promotes the public confidence in elections that is the lifeblood of democracy. However, in some cases, poll observers have also caused major disruption at the polls. For example, during the 2020 election in Michigan, large groups including partisan poll observers crowded polling sites and attempted to enter vote counting rooms.

Later this month, the States United Democracy Center will release a report examining the relevant laws governing poll observers. We use this term to describe both *poll watchers*, private individuals who observe the election process, and *election challengers*, who have many of the same privileges and can also dispute whether a prospective voter is eligible to cast a ballot. (Our definition of “poll observers” for the purposes of this report does not include poll workers or other categories of officials permitted to be present at polling places.) This report will include detailed summaries of 12 key states that saw record voter participation, many of which were also subject to significant attempts to undermine the electoral process by a variety of partisan actors in 2020. We intend for this report to provide guidance regarding the power, privileges, and limitations of poll observers to statewide elected officials, law enforcement professionals, elections administrators, election protection groups, and others—regardless of partisan affiliation.

This summary of poll observer rights and responsibilities in Kentucky is one of 12 that we will ultimately release. These summaries provide a review of state regulatory schemes concerning poll observers, detailing credentialing and training requirements as well as rights and responsibilities afforded to both poll watchers and election challengers in each state. We hope that these summaries will support the administration of free, fair, and secure elections.

Please note: this report does not purport to catalog all state statutes or rules that may regulate the behavior of individuals who serve as poll observers and should not be relied upon as legal advice. To ensure accuracy, completeness, and the most up-to-date language, please consult official sources before relying on the authorities described in this report.



Kentucky

WHO IS PERMITTED TO WATCH OR CHALLENGE VOTERS AT THE POLLS AND HOW ARE THOSE ROLES DEFINED?

Representatives:

Kentucky permits appointed representatives of political parties, candidates, and news media to observe the counting of votes and be present for the examination of voting equipment. (Ky. Rev. Stat. §117.275, §117.165(3)).

Challengers:

Kentucky permits appointed challengers to challenge the right to vote of others in the same county. (Ky. Rev. Stat. §117.315 (1)). In primaries, one party's challengers may not challenge voters of any other party. (*Id.*).

HOW ARE REPRESENTATIVES AND CHALLENGERS APPOINTED OR DESIGNATED?

Representatives:

Primaries. In primaries, each candidate or group of candidates may designate to the county board of elections a representative to witness and check the vote. (Ky. Rev. Stat. §117.275(9)).

General Election. In a general election, the governing authority of each political party and each candidate may designate a representative to the county board of elections to witness and check the vote count. (Ky. Rev. Stat. §117.275(9)).

The county board of election shall authorize representatives of the news media to witness the vote count in both primary and general elections. (Ky. Rev. Stat. §117.275(9)).



Challengers:

Primaries. In a primary election, each political party is entitled to have no more than two challengers at each precinct. County party committees shall present a list of certified challengers to the county clerk at least twenty days before the primary. (Ky. Rev. Stat. §117.315(1)).

General Election. In a general election, the county executive committee of any political party may designate no more than two challengers at each precinct in each county. The committee or chair shall present the county clerk with a list of designated challengers at least 20 days before a regulation election and at least 15 days before a special election. (Ky. Rev. Stat. §117.315(3)).

ARE THERE ANY RESIDENCY OR TRAINING REQUIREMENTS FOR REPRESENTATIVES OR CHALLENGERS?

Representatives:

There are no training or residency requirements for representatives.

Challengers:

Challengers must be registered voters of the county in which they serve. (Ky. Rev. Stat. §117.315(1)). Before serving, challengers must receive training provided by the county board of elections. (Ky. Rev. Stat. §117.187(2)).

WHAT PRIVILEGES OR SPECIAL RIGHTS DO REPRESENTATIVES OR CHALLENGERS HOLD AT POLLING SITES?

Representatives:

Representatives are permitted to witness and check the vote count. (Ky. Rev. Stat. §117.275(1)). Moreover, one representative of each political party having candidates on the ballot and representatives of the media may be present when the county board of elections examines voting equipment, which should occur no later than the Thursday before election day. (Ky. Rev. Stat. §117.165(1), (3)).



Challengers:

Challengers may dispute a voter if they have good reason to believe any of the following:

- A voter is not a duly registered voter in the precinct;
- A voter is not a resident of the precinct;
- A voter is a convicted felon who has not had his civil rights restored; or
- A voter is not the person he claims to be. (Ky. Rev. Stat. §117.316(1)).

In addition to the right to challenge voters, challengers are permitted to “stay in the room or at the door” of where voting occurs at a polling place. (Ky. Rev. Stat. §117.315). Challengers, unlike representatives or other election officers, may use paper, a telephone, a computer, or any other piece of technology for the purpose of creating a checkoff list and recording the identity of voters within the voting room. (Ky. Rev. Stat. §117.236). There are no limits on the number of good-faith challenges a challenger may bring.

WHAT ARE REPRESENTATIVES OR CHALLENGERS RESTRICTED FROM DOING AT THE POLLS?

Representatives:

There are no express restrictions on the activities of representatives, but general rules of conduct apply.

Challengers:

Challengers may not:

- Handle official election materials;
- Attempt to intimidate or harass any voter who is being challenged or any precinct election officer;
- Behave in any manner to disrupt activities at a polling place; or
- Attempt to interfere with the proper conduct of the election. (Ky. Rev. Stat. §117.317).

Precinct officers are required to expel a challenger from a polling place if, after warning, the challenger continues to violate rules applicable to challengers. Once expelled, a challenger will be ineligible to serve as a challenger again for five years. (Ky. Rev. Stat. §117.318).



WHAT ARE THE GENERALLY APPLICABLE CIVIL OR CRIMINAL PROHIBITIONS ON INTERFERING WITH THE VOTING PROCESS?

Kentucky has a number of provisions governing activity at polling places, including fines and criminal penalties for election interference, voter fraud, and ballot tampering. (See generally Ky. Rev. Stat. §§ 119.005–990).

WHAT ARE THE CIVIL OR CRIMINAL PENALTIES FOR PEOPLE WHO INTERFERE WITH THE LAWFUL ACTIVITIES OF REPRESENTATIVES OR CHALLENGERS?

Any election officer who refuses to permit a duly appointed challenger to perform their duties shall be fined up to \$500. (Ky. Rev. Stat. §119.145).

This report does not constitute legal advice. Please consult official sources before relying on any of the authorities described in this report.

This guidance document was prepared by the States United Democracy Center.

The States United Democracy Center is a nonpartisan organization advancing free, fair, and secure elections. We focus on connecting state officials, law enforcement leaders, and pro-democracy partners across America with the tools and expertise they need to safeguard our democracy. For more information visit www.statesuniteddemocracy.org or follow us at @statesunited.