

MIDTERMS

2022:

The Poll Observer Landscape



TABLE OF CONTENTS

Introduction	3
The Post-2020 Changing Legal Landscape	7
Optimal Poll Observation: Policy Recommendations	9
Poll Observer Rights and Responsibilities: State Summaries	12
Arizona	14
Florida	19
Georgia	22
Kentucky	26
Louisiana	30
Michigan	33
Minnesota	42
Nevada	45
North Carolina	49
Pennsylvania	53
Texas	58
Wisconsin	63

Introduction

Poll observers — members of the public permitted to monitor conduct at polling places — are a feature of elections in nearly every state. They provide 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 significant disruption at the polls. For example, during the 2020 election in Michigan, large groups including partisan poll observers crowded Michigan polling sites and attempted to enter vote counting rooms!¹ In this guide we examine the relevant laws governing poll observers (a term we use here to describe both *poll watchers* and *election challengers*, discussed further below) through a detailed analysis of 12 key states. This report provides 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. We intend this guidance to help mitigate confusion or uncertainty around observation at polling sites and to help ensure that poll observers can contribute to free, fair, and secure elections. This guide includes both summaries of the legal landscape in 12 key states and common sense, proven policy recommendations concerning poll observers that help ensure access to the franchise, secure the integrity of the vote, promote transparency, and protect the safety of all involved in elections.

This report is divided into three sections: (1) The Post-2020 Changing Legal Landscape, (2) Optimizing Poll Observer Contributions: Policy Recommendations, and (3) Poll Observer Rights and Responsibilities: State Summaries. The first section surveys the evolving legal landscape for poll observers following the 2020 election, with particular attention to the rush of legislation introduced in many state legislatures concerning poll watchers and election challengers in 2021. The second section contains policy recommendations for legislators, election officials, political parties, and law enforcement leadership at the state and local level, as well as state secretaries of state and attorneys general to consider as they craft guidelines and implement policy concerning poll observer conduct. The final section provides detailed state-by-state analysis of poll watcher and election challenger credentialing, training, and regulation in 12 key states, including Arizona, Florida, Georgia, Kentucky, Louisiana, Michigan, Minnesota, Nevada, North Carolina, Pennsylvania, Texas, and Wisconsin. These states saw record turnout in 2020 and many saw significant attempts to undermine the electoral process by a variety of partisan actors as well.

¹ Pak Yiu & Michael Martina, *Michigan Still Counting Votes, Angry Poll Watchers Barred in Detroit, Trump Sues*, Reuters (Nov. 4, 2020), <https://www.reuters.com/article/us-usa-election-michigan/michigan-still-counting-votes-angry-poll-watchers-barred-in-detroit-trump-sues-idUSKBN27K2AQ>.

Background

At the outset of our democracy, votes were cast in the open.² Citizens either announced the name of their preferred candidate or cast brightly colored paper ballots that corresponded to their choice. As the franchise expanded, the country evolved from this brand of election administration and transitioned towards a secret ballot model paired with appointed observers, often appointed by state or county party committee chairs, where observers function as a proxy for broader public oversight.³ The appointed observer model is predominant today. Nevertheless, the value of transparency in elections is as vital today as it ever has been in our nation's history.

When properly trained and regulated, poll observers promote not only transparency, but also trust in elections, civic engagement, and election security. However, since observers became mainstays in most states, individuals have sometimes co-opted the right of observation to attempt to deny the franchise to voters, particularly those from communities of color. In the period following Reconstruction, observers often functioned as violent mobs, ensuring that newly enfranchised Black voters would not be able to cast their ballots.⁴ And throughout the civil rights era and beyond, poll observers have been deployed to intimidate Black and brown voters.⁵

The presence of observers at the polls once again became a flashpoint during the 2020 presidential election. In the aftermath of the election, claims arose that observers had been improperly denied access to polling places or had been deployed illegitimately to impact the results of the election in a number of closely contested states. For example, in Pennsylvania, the Trump legal team alleged that Republican poll watchers were denied access to observe the counting of ballots.⁶ In Michigan, a lawsuit brought by the Trump campaign asserted that Republican poll watchers had been improperly denied access to certain areas within polling places, allowing Democratic volunteers to double-count ballots.⁷ Lawsuits across the country included similar allegations.

² Rebecca Green, *Rethinking Transparency in U.S. Elections*, 75 Ohio St. L.J. 779, 786 (2014).

³ *Id.* at 790.

⁴ Ben Cady & Tom Glazer, *Voters Strike Back: Litigating Against Modern Voter Intimidation*, 39 N.Y.U. Rev. L. & Soc. Change 173, 183–190 (2015); see also: Emily Eby & Joaquin Gonzalez, Tex. Civil Rights Project, *Opening the Floodgates for Racial Intimidation, Disenfranchisement, and Violence by Expanding Poll Watcher Authority* (2021), <https://txcivilrights.org/wp-content/uploads/2021/05/TCRP-Poll-Watcher-Report.pdf>.

⁵ Eby & Gonzalez, *supra* note 4, at 4–6.

⁶ Christina A. Cassidy & Anthony Izaguirre, *Poll Watchers Emerge as a Flashpoint in Battle over Ballots*, AP News (Nov. 5, 2020), <https://apnews.com/article/poll-watchers-ballots-access-monitor-b4e95da6bcf2c8c0e9fda190b332d6d5>.

⁷ Ewan Palmer, *Affidavits Alleging Voter Fraud Accuse Poll Workers of Wearing Black Lives Matter Clothing*, Newsweek (Nov. 11, 2020), <https://www.newsweek.com/michigan-election-affidavits-fraud-trump-1546698>.

Despite a lack of evidence (or success in court), these claims fed conspiracy theories that the 2020 election had been stolen. Fueled by these baseless theories, state legislatures passed laws to empower partisan poll watchers and expand opportunities for voter challenges. Texas enacted S.B. 1, which imposes criminal penalties on non-partisan election administrators if they are deemed to be interfering with the lawful work of partisan poll watchers and expands the power and privileges of watchers at the polls — including the right to observe the ballot tabulation process.⁸ In Georgia, S.B. 202 codified mass voter challenges, ensuring that all voters have the right to contest the eligibility of an unlimited number of prospective voters from the same municipality or county.⁹ These and similar recently enacted laws have election law experts concerned that the expanded power of poll observers will make it increasingly difficult for officials to administer elections without unwarranted disruption, interference, or voter intimidation.

Against the backdrop of the 2020 election and a new legal landscape for poll observers in many states, it has perhaps never been more critical for state and local lawmakers and election officials to carefully examine how they incorporate observers into free, fair, and secure elections or for any organization involved with elections to understand the regulations governing poll observers.

Terminology and Limitations of This Guide

Because state law dictates most election administration, the terminology, rights, and procedures regarding election observation vary greatly from state to state. As a result, no uniform set of definitions applies across all states to capture and describe the roles played by members of the public who help administer our elections. Throughout this guide, we will refer to two distinct groups of poll observers, categorized according to the distinct roles they play:

Poll watchers are private individuals who observe the election process, both at polling places and sometimes at locations where ballots are reviewed and counted. They are most frequently appointed by candidates or political parties and generally serve to protect the interests of the candidate or party that appoints them. In most states, state law regulates the manner in which poll watchers may engage in the electoral process—setting standards for their appointment process, their conduct during poll watching, and the number of poll watchers permitted at any particular location.

Election challengers have many of the same basic privileges as poll watchers but are distinguished by their ability to dispute whether a prospective voter is eligible to cast a ballot. The rights of challengers vary by state, but most states set special credentialing requirements and limitations for challengers.

⁸ S.B. 1, § 3.04, 87th Legis., 2d Spec. Sess. (Tex. 2021).

⁹ S.B. 202, § 16, 156th Legis., (Ga. 2021).

For the remainder of this guide, we will use **poll observers** or **observers** when broadly referring to these two groups of members of the public permitted to observe conduct at polling places. We will use either **poll watchers** or **watchers** or **election challengers** or **challengers** when distinguishing between observers. Note, however, that in some states the same designated individual observers perform both poll watcher and election challenger functions.

It is important to note that 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—and in some cases permitted special access or election challenge privileges. Poll workers and other officials are addressed by other authorities not included in this report.

Finally, 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 currentness, please consult official sources before relying on any of the statutes described in this report.

The Post-2020 Changing Legal Landscape

After the 2020 election cycle, state legislators introduced at least **123 bills** in **25 states** over the course of 2021 modifying the power and privileges of poll observers.¹⁰ The proposed bills touched every facet of election administration and variously would have granted observers greater access to voters and election officials at polling sites, given permission to record voters and election processes, loosened residency requirements for observers to serve at polling locations, and introduced civil and criminal penalties for obstructing observers engaged in lawful activity. Of the bills introduced, at least **11** were enacted into law granting greater authority to observers (FL S.B. 90, GA S.B. 202, IA S.F. 413, KY H.B. 574, MT S.B. 93, NH S.B. 89, NY S.B. 1027, TX H.B. 1128, TX H.B. 3107, TX S.B. 1, TX S.B. 598).

Of these 11 bills, **nine** (FL S.B. 90, GA S.B. 202, KY H.B. 574, MT S.B. 93, NH S.B. 89, NY S.B. 1027, TX H.B. 1128, TX H.B. 3107, TX S.B. 598) give observers increased access to ballot counting and processing. **Two bills** (IA S.F. 413 and TX S.B. 1) create criminal penalties for interfering with the work of observers.

Bills Passed in 2021		
State	Bill Number	Notes
Florida	<u>S.B. 90</u>	Authorizes watchers to observe at county canvassing boards while ballots are being examined.
Georgia	<u>S.B. 202</u>	Mandates that poll watchers be given access to observe at ballot tabulation centers.
Iowa	<u>S.F. 413</u>	Makes it a criminal offense to interfere with a lawfully present observer.
Kentucky	<u>H.B. 574</u>	Expands challenger rights to allow for observation at all in-person absentee voter locations.
Montana	<u>S.B. 93</u>	Authorizes observers at ballot drop box locations.
New Hampshire	<u>S.B. 89</u>	Authorizes watchers to observe the opening of ballot envelopes and review voter affidavits.
New York	<u>S.B. 1027</u>	Authorizes watchers to observe the processing of absentee ballots.
Texas	<u>H.B. 1128</u>	Provides that watchers may be present in all polling locations and wherever ballots are counted.
Texas	<u>H.B. 3107</u>	Authorizes watchers to observe at signature verification sites while ballots are being processed or counted.

¹⁰The National Conference of State Legislatures, *State Elections Legislation Database* (Updated: July 18, 2022, <https://www.ncsl.org/research/elections-and-campaigns/elections-legislation-database.aspx>) (this number reflects all state legislation introduced in 2021 and catalogued in NCSL's State Elections Legislation Database under the topics of "Challenges to Voters" or "Poll Watchers").

State	Bill Number	Notes
Texas	<u>S.B. 1</u>	<ul style="list-style-type: none"> • Mandates that watchers be given “free movement” throughout the polling site. • Gives watchers permission to stand close enough to “see and hear” interactions between voters and election officials, except where explicitly prohibited elsewhere in the bill. • Makes it a misdemeanor offense for an election official to interfere with or refuse to accept a lawfully present poll watcher.
Texas	<u>S.B. 598</u>	Authorizes watchers to observe during post-election audits.

The trend continues in 2022 with **58 bills** introduced in **21 states** that would alter the rights of poll observers, according to the National Conference of State Legislatures. As of the date of this publication, **four bills** have been enacted into law (KY H.B. 564, LA S.B. 74, NH H.B. 1174, UT H.B. 387).¹¹

Bills Passed in 2022 as of July 18, 2022		
State	Bill Number	Notes
Kentucky	<u>H.B. 564</u>	Expands access for appointed challengers by enabling them to observe all in-person absentee voting.
Louisiana	<u>S.B. 74</u>	Clarifies that any qualified Louisiana voter who is not a candidate in the election may serve as a poll watcher. Previous language required that in addition to not being a candidate in the election watchers must also not require assistance in voting. That language has been removed.
New Hampshire	<u>H.B. 1174</u>	Allows challengers to observe the hand counting of ballots and the tabulation of votes from a distance that permits them see and hear the hand-counting of ballots and to maintain a line of sight on any electronic ballot counting device.
Utah	<u>H.B. 387</u>	<ul style="list-style-type: none"> • Allows poll watchers to observe the signature verification process. • Sets out that election officers must provide “uniform, nondiscriminatory access” for watchers to observe each stage of the election process.

¹¹ The National Conference of State Legislatures, *State Elections Legislation Database* (Updated: July 18, 2022), <https://www.ncsl.org/research/elections-and-campaigns/elections-legislation-database.aspx>.

Optimal Poll Observation: Policy Recommendations

As the stewards of election administration, state lawmakers and election officials are charged with creating and implementing an election system in each state that ensures access to the franchise for all who qualify, secures the integrity of the vote, promotes transparency at all levels of the electoral process, and protects the safety of all involved in elections. Because every state faces its own challenges, there is no one-size-fits-all way to configure a poll observer program. Nevertheless, several common practices have helped advance the goals of access, integrity, transparency, and safety in states where they have been implemented. Below is a non-exhaustive list of such practices, presented roughly in order of how far in advance of an election they would ideally be implemented. We begin with those recommendations that must be implemented farthest ahead of an election, and end with those that can be implemented closest to Election Day. We note that these recommendations can be implemented through a variety of means, such as legislation, administrative guidance to the extent practical under existing law, or allocation of resources.¹²

Create a formal process for credentialing poll observers. Formal credentialing of poll observers allows state and local election officials to more effectively manage who enters their polling sites and how observers are allowed to engage in the election. Credentialing procedures should:

- Require that the names of all poll observers be submitted to election commissioners at the county or state level before Election Day;
- Make clear the number of watchers and challengers permitted to serve at a single polling location; and
- Set a deadline prior to Election Day by which all parties must submit candidates for observation. Existing deadlines range from a few days before Election Day to several months in advance.

Expand training for poll observers, election workers, and all non-voters permitted at the polls. Training of all individuals who work or volunteer in elections helps to prevent partisan bias and mistrust. To ensure that all parties at polling sites are aware of their rights and responsibilities, poll watchers, poll challengers, and election workers should receive training on their rights and duties, the rights of voters, and on how to deescalate conflicts that may arise at a polling site. States and/or counties should require or at minimum offer and recommend this training. Alternatively, where no training is offered at the state or local level, parties should provide it to their election workers and observers.

¹² Readers are encouraged to consult additional resources for further recommendations concerning poll observers including the Bipartisan Policy Center's report *Policy to Advance Good Faith Election Observation* (Jan. 2022), <https://bipartisanpolicy.org/download/?file=/wp-content/uploads/2022/01/Policy-to-Advance-Good-Faith-Election-Observation-Bipartisan-Policy-Center.pdf>.

Explicitly prohibit voter intimidation at polling places. Most states explicitly prohibit voter intimidation, and many impose criminal penalties on individuals who violate these statutes. Examples of voter intimidation can include but are not limited to aggressive or threatening behavior at a polling site, blocking or interfering with access to a polling site, direct confrontation or questioning of voters, disrupting voting lines, and disseminating false or misleading election information.

Set clear guidelines defining acceptable behavior at the polls and procedures for expelling individuals who violate the guidelines. States already impose a variety of limitations on the type of election activity poll observers may engage in. The overwhelming majority of states explicitly prohibit watchers and challengers from engaging in behavior that disrupts the orderly process of the election; talking to voters; or handling ballots, voting equipment, or other election materials.

- Poll watchers and challengers should be clearly delineated from poll workers so voters can easily tell the difference. In several states, observers are required to wear ID badges at all times while inside a polling location.
- To keep voting easy and accessible for all registered voters, where permitted by law, clear guidelines and standards should be established to limit and address bad-faith ballot challenges. Such challenges can be used as a tool to suppress the vote; historically they have been used against voters of color in particular. These guidelines can include requiring challengers to articulate the basis for the challenge and ensure it complies with law; requiring that challenges are based on a degree of knowledge specified by law; and barring challenges brought on suspicion that a voter is ineligible due to their perceived race, gender, gender identity, ethnic background, language, or ability.
- To further protect against interference or intimidation, states should set explicit physical limitations on how close watchers and challengers may come to voting machines, booths, or tables used by election officials. States should also prohibit challengers from talking directly to voters unless they are in the presence of an election official.
- States should set clear procedures for removing observers who violate these provisions and ensure that statutes designed to prevent unlawful interference with the rights of observers do not inhibit the removal of unruly individuals.
- All guidelines and limitations on watchers and challengers should be posted, publicly available, and accessible at polling places.

Coordinate with local law enforcement in advance of elections. Local elections authorities should coordinate with law enforcement in advance of upcoming elections to plan for safe and secure elections and to address potential threats. Election authorities should work together to make sure law enforcement is fully informed about election-related matters and help ensure that law enforcement is properly equipped to respond to anti-democracy threats. While this does not mean that law enforcement must or even should be present at polling places, elections officials and law enforcement can work together, for example, in the creation and implementation of risk matrixes to assess threats posed to election infrastructure.

Keep the public informed of policies and prioritize transparency. Effective election observation is a valuable tool for improving the quality of elections, and the presence of dutiful observers helps build public confidence in the electoral processes. Keeping the public informed of the policies and practices that guide observers at polling sites builds trust and confidence in elections. It also helps to preempt or rebut bad-faith accusations of partisanship in the administration of elections.

Poll Observer Rights and Responsibilities: State Summaries

The regulatory schemes governing poll observers vary a great deal across states. Some more closely regulate the presence of watchers and challengers at the polls than others. Yet, any effort to make sure that poll observers serve to promote confidence and transparency in elections and are not sources of unnecessary disruption must begin with a clear understanding of the applicable rules.

In this section we first provide an overview of some of the ways states regulate observers. Next, we provide a detailed summary of state regulatory schemes for observers in 12 key states: Arizona, Florida, Georgia, Kentucky, Louisiana, Michigan, Minnesota, Nevada, North Carolina, Pennsylvania, Texas, and Wisconsin. These states saw record turnout in 2020; many of them also saw significant attempts to undermine the results of the 2020 election.

Credentialing Process and Requirements

The overwhelming majority of U.S. states have a formal process of credentialing poll observers. In many of these states, potential observers are selected by the county or state committee chairs of political parties appearing on the ballot, and then are submitted for credentialing to election officials at the county or state level before Election Day.

For example, in Georgia, poll watchers must be identified to the election superintendent of the county or municipality at least three days before the election. Watchers are identified and submitted by party or candidate representatives. (Ga. Code Ann. § 21-2-408). In Pennsylvania, poll watchers must be provided certificates from the County Board of Elections stating their names and the name of the candidates or parties they represent. (25 P.S. § 2687).

Many states require poll observers to be residents of the state or county where they serve. Certain states also require observers to be registered voters of the state and distinguish between what registered and non-registered voters are allowed to do as observers. In Kentucky, for example, poll watchers need not be registered voters or satisfy residency requirements, but challenges may be made only by registered voters. (Ky. Rev. Stat. §117.315).

Training Requirements

Only a small minority of states require training for poll observers. In these states, training is generally provided by the state or by the political party or candidate appointing the observer, and observers must present a certification of completion when reporting for service. Georgia requires that poll watchers receive training on their “duties and in applicable laws and rules and regulations,” which is typical of the content specifications in these laws. (Ga. Code Ann. § 21-2-408(e)).

Limitations on Poll Observers’ Behavior

While poll observers are broadly permitted to observe conduct occurring during an election, states impose a variety of limitations on the type of election activity in which watchers and challengers can observe and engage. The overwhelming majority of states that allow for observers explicitly prohibit them from engaging in behavior that disrupts the orderly process of the election; talking to voters; or handling ballots, voting equipment, or other election materials. Arizona’s law is a good example of the typical restrictions placed on observers. It prohibits Arizona’s observers from marking ballots, talking to voters, handling election materials or voting machines, or interfering with election procedures or staff. (Arizona Secretary of State, 2019 Elections Procedures Manual, Pg. 141-42).

Some states additionally set physical limits on how close observers may come to voting machines, booths, or tables used by election officials. In Minnesota, for example, challengers are prohibited from being within six feet of the ballot counter or other voting equipment unless lawfully authorized to do so by an election judge. (Minn. Stat. Ann. § 204C.06 subd. 2). In Wisconsin, the chief inspector or municipal clerk may designate observation areas for election observers that are positioned between three feet and eight feet from where voters are issued a voter number and from locations where people may register to vote at a polling place. (Wis. Stat. § 7.41(2)).



Arizona

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

Party Agent/Representative:

Arizona allows party agents, also referred to as representatives, to observe conduct at the polls. (Ariz. Rev. Stat. § 16-590(A)). Party agents are also allowed to serve as challengers for the party that appoints them. (*Id.*).

Challengers:

In addition to party agents who may serve as challengers, any voter may orally challenge other voters of the same county as not qualified under § 16-121.01 or on the ground that they have already voted in the election. (Ariz. Rev. Stat. § 16-591).

HOW ARE PARTY AGENTS/REPRESENTATIVES AND CHALLENGERS APPOINTED OR DESIGNATED?

Party Agent/Representative:

The county chair of each party, by written appointment addressed to the election board, may designate a party agent and alternates for each polling place in each precinct. (Ariz. Rev. Stat. § 16-590(A)). The County Recorder or officer in charge of elections may require reasonable deadlines for advance notice of appointments. (Arizona Secretary of State, 2019 Elections Procedures Manual, Pg. 139).¹³ Unless an agreement is made between the parties, not more than one party agent may be present for each party at a single polling place at any time. (Ariz. Rev. Stat. § 16-590(C)). However, only one representative for each party is permitted within the 75-foot limit while the polls are open. (Ariz. Rev. Stat. §§ 16-515(A), (B), (H)).

¹³ On June 17, 2022, the Yavapai County Superior Court concluded that because an updated 2021 Elections Procedures Manual had not been approved by the Governor and Attorney General, the 2019 Elections Procedures Manual was the last approved manual and “currently remains the [manual] for Arizona elections.” *Brnovich v. Hobbs*, Yavapai County Superior Court Case No. CV-2022-00269. As of the publication of this report, an appeal in this matter remains pending. Accordingly, this report cites to applicable provisions of the 2019 Elections Procedures Manual.



Challengers:

At each polling place, political parties may designate one challenger (the party agent). (Ariz. Rev. Stat. § 16-590(B)). In addition, any voter at the polls may challenge other voters of the same county. (Ariz. Rev. Stat. § 16-591). There is no formal credentialing process required for a voter to challenge other voters of the same county. However, Arizona law only allows a voter to remain inside the seventy-five foot limit while the polls are open for the purpose of voting. Ariz. Rev. Stat. § 16-515(A).

ARE THERE ANY RESIDENCY OR TRAINING REQUIREMENTS FOR PARTY AGENTS/REPRESENTATIVES OR CHALLENGERS?

Party Agent/Representative:

Party agents must be residents of the state and registered to vote. (Ariz. Rev. Stat. § 16-590(D)). There are no training requirements for party agents.

Challengers:

Challengers appointed by a political party need only be residents and registered voters in the state. (Ariz. Rev. Stat. § 16-590(D)). All other challengers must be registered voters and reside in the same county as the voter they are challenging (Ariz. Rev. Stat. § 16-591). There are no training requirements for challengers.

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

Party Agent/Representative:

Party agents may observe the following activities at a voting location:

- Opening the voting location;
- Voting at the voting location (but may not observe in the voting booth);
- Closing the voting location;
- Transport of ballots from the voting location to a receiving site; and
- Any other significant voting or processing activities at the voting location provided that it does not interfere with or impede the election procedures or staff. (Arizona Secretary of State, 2019 Election Procedures Manual, Pg. 140).



Party agents may also observe the following at central counting places:

- Receiving ballots at the County Recorder's office or central counting place;
- Inspecting ballots;
- Reviewing ballots by the Write-in Tally Board;
- Duplicating ballots by the Ballot Duplication Board;
- Adjudicating ballots by the Electronic Vote Adjudication Board;
- Receiving electronic media or processing voting results by the Accuracy Certification Board;
- Tabulation of ballots; and
- Any other significant tabulation or processing activities provided that it does not interfere with or impede the election procedures or staff. (Arizona Secretary of State, 2019 Elections Procedures Manual, Pg. 141).

Challengers:

Beyond the right to challenge, challengers appointed by a political party are permitted to remain within the 75-foot perimeter around the voting location. (Ariz. Rev. Stat. § 16-515(A)). There are no limits on the number of good faith challenges a voter may make.

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

Party Agent/Representative:

Party agents are prohibited from any of the following:

- Marking any ballot or otherwise touching a ballot during observation;
- Offering to assist any voter in the process of voting;
- Touching or handling election materials, rosters, early ballot envelopes, provisional ballot envelopes, ballot transfer containers, or voting machines;
- Interfering with or impeding election procedures or staff;
- Wearing, carrying, or displaying any materials that identify or express support or opposition for a political party, political organization, or a candidate or ballot measure appearing on the ballot;
- In cases where multiple ballots are dropped off at a voting location, within the 75-foot limit: (1) inspecting, copying, or photographing the early ballot envelopes in an effort to discern voters' identities; or (2) confronting, questioning, or photographing the individual who dropped off the early ballots. (Arizona Secretary of State, 2019 Elections Procedures Manual, Pg. 141-42).



Party agents remain under the supervision of the County Recorder or other officer in charge of elections and may be removed for failure to comply with state or federal law. (See Arizona Secretary of State, 2019 Election Procedures Manual, Pg. 140).

Challengers:

As part of “intimidating conduct” prohibited at the polls, Arizona law prohibits raising frivolous voter challenges without any good faith basis, or raising voter challenges solely based on race, ethnicity, national origin, language, religion or disability.” (Arizona Secretary of State, 2019 Election Procedures Manual, Pg. 181). Further, challenges may only be brought for the following reasons:

- The voter has voted before at that election;
- The voter is not the person whose name appears in the signature roster or e-pollbook;
- The voter has not resided in Arizona (or the relevant local jurisdiction) for at least 29 days before the election, (Ariz. Rev. Stat. § 16-121.01(B)(2));
- The voter is registered at an address that is not permitted for registration purposes; or
- The voter is not otherwise a qualified elector, for example, the voter does not live within the proper electoral district or is not at least 18 years old. (Arizona Secretary of State, 2019 Elections Procedures Manual, Pg. 189-90).

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

In Arizona, voter coercion or intimidation is a class 1 misdemeanor. (Ariz. Rev. Stat. § 16-1013). Additionally, Arizona imposes criminal penalties on a number of acts that interfere with the voting process, including the distribution of unlawful ballots; interfering with an election officer or voting equipment; and ballot abuse. (Ariz. Rev. Stat. §§ 16-1002 – 16-1005).



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

Arizona does not appear to impose any civil or criminal penalties specifically for interfering with the lawful activities of party agents or challengers. However, Arizona law provides generally that a public officer or any person charged with performing a duty under any law relating to elections who knowingly fails or refuses to perform that duty in the manner prescribed by law, or who knowingly acts in violation of any provision of the law, is guilty of either a class 6 felony or class 3 misdemeanor. (Ariz. Rev. Stat. §§ 16-1009, 1010). Further, any violation of provisions the Elections Procedures Manual is punishable as a class 2 misdemeanor. (Ariz. Rev. Stat. § 16-452(C)).



Florida

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

Poll Watchers:

Florida permits appointed poll watchers to observe conduct at the polls. (Fla. Stat. § 101.131(1)).

Challengers:

Any voter or poll watcher of a county may challenge the right of a person to vote in that county. (Fla. Stat. § 101.111(1)(a)). In practice, however, voters who are not poll watchers generally cannot challenge other voters at the polls, as Florida law does not make the desire to challenge voters' right to vote a sufficient basis to enter a polling place. (Fla. Stat. § 102.031(3)(a)).

HOW ARE WATCHERS AND CHALLENGERS APPOINTED OR DESIGNATED?

Poll Watchers:

Each political party, each candidate, and each political committee formed in favor of or to defeat a ballot measure may have one watcher at a time at each polling room or early voting area during the election. (Fla. Stat. § 101.131(1)). Each party, political committee, and candidate requesting to have poll watchers must provide a list of poll watchers for each polling site to the supervisor of elections before noon of the second Tuesday before the election. (Fla. Stat. § 101.131(2)).

Challengers:

Any voter or poll watcher of a county may challenge the right of a person to vote in that county. (Fla. Stat. § 101.111(1)(a)). There is no additional credentialing requirement for poll watchers to serve as challengers and there is no formal credentialing process required for a voter to challenge other voters.



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

Poll Watchers:

Watchers must be registered voters in the county where they serve. (Fla. Stat. § 101.131(1)). Florida does not require training for watchers, but some counties provide their own.

Challengers:

Challengers must reside and be a registered voter in the same county as the voter they are challenging (Fla. Stat. § 101.111(1)(a)). There are no training requirements for challengers.

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

Poll Watchers:

Poll watchers shall be allowed within the polling room or early voting area to watch and observe the conduct of voters and officials. (Fla Stat. § 101.131(1)). Watchers should be given access to observe in all polling rooms and early voting areas within the county they are assigned so long as the number of poll watchers at any particular polling place does not exceed the number provided in the election code. (Fla. Stat. § 101.131(4)).

Challengers:

The desire to challenge another's right to vote is an insufficient basis to enter a polling place. (Fla. Stat. § 102.031(3)(a)). No explicit privileges or rights exist for challengers beyond the right to challenge a voter of the same county. There are no limits on the number of good faith challenges a challenger may bring.



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

Poll Watchers:

While watchers are permitted at polling sites, they may not come closer to the officials' table or voting booths than is reasonably necessary to perform their duties and they may not in any way obstruct orderly conduct at the polls. (Fla. Stat. § 101.131(1)). Watchers may not interact with voters and should pose all questions directly to the clerk. (*Id.*) (Fla. Stat. § 101.131(1)). Poll watchers must wear an identification badge provided by the supervisor of elections while performing their duties. (Fla. Stat. § 101.131(5)). Lastly, poll watchers cannot take photographs within polling places. (Fla. Stat. § 102.031(5)).

Challengers:

When bringing forth a challenge, the challenger must sign a statutory oath and submit each challenge separately. (Fla. Stat. § 101.111(1)(a)). Any person found to have filed a frivolous challenge will be deemed to have committed a misdemeanor offense of the first degree. (Fla. Stat. § 101.111(b)(2)). This prohibition does not apply to challenges made in good faith. (*Id.*).

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

Florida Stat. § 102.031 sets general procedures at polling sites and authorizes the removal of “disruptive and unruly persons.” (Fla. Stat. § 102.031(4)(c)). The statute further prohibits unlawful entry and photography in a polling place. (Fla. Stat. §§ 102.031(3)(a), (5)).

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

Other than the general prohibition on disruptive and unruly behavior at a polling place, Florida does not appear to impose any civil or criminal penalties for interfering with the lawful activities of watchers or challengers. However, after the polls close, election officials shall allow as many as three people to observe the counting process. (Fla. Stat. § 104.29). Any official who interferes with this observation commits a first-degree misdemeanor. (*Id.*).



Georgia

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

Poll Watchers:

The general public has a right to observe conduct at the polls outside of the “enclosed space” (that is, the area within the polling place where voting machines are located, generally behind a guardrail or other barrier). (Ga. Code Ann. § 21-2-267). Appointed poll watchers have an elevated privilege to observe conduct at the polls within the “enclosed space” where voting occurs. (Ga. Code Ann. § 21-2-408).

Challengers:

Any elector of the county or municipality is also allowed to submit a written challenge contesting the eligibility of another voter within the same county or municipality prior to a vote being cast. (Ga. Code Ann. § 21-2-230(a)). Challengers must specify distinctly the grounds of the challenge. (*Id.*).

HOW ARE WATCHERS AND CHALLENGERS APPOINTED OR DESIGNATED?

Poll Watchers:

Primaries. In a primary, each candidate appearing on the ballot may submit the name of one poll watcher for each precinct to the chairperson or secretary of the appropriate party executive committee at least 21 days prior to the primary. (Ga. Code Ann. § 21-2-408(a)(1)). Party executive committees then may designate, at least seven days prior to an election, no more than two poll watchers for each precinct at least seven days before the primary. (*Id.*). Official poll watchers must be given a letter signed by the party chair and secretary, containing the following information: name of the poll watcher, address, precinct in which they will serve, and the name and date of the primary. (*Id.*). At least three days prior the primary, a copy of the letter must be delivered to the superintendent of the county or municipality in which the watcher will serve. (*Id.*). The same procedure applies for advance voting locations, except the deadlines are measured from the start of advance voting, rather than the primary date. (Ga. Code Ann. § 21-2-408(a)(2)).



General Election. In a general election, each political party is entitled to designate no more than two official poll watchers in each precinct at least seven days prior to the election. (Ga. Code Ann. 21-2-408(b)(1)). Each independent candidate is entitled to designate one poll watcher in each precinct. (Ga. Code Ann. 21-2-408(b)(2)). Political parties and independent candidates may also designate, at least 14 days prior to an election, an additional 25 official state-wide poll watchers that may observe in any precinct in the state. (*Id.*). No more than four poll watchers (two local and two state-wide) may be present in a precinct at a single time. (Ga. Code Ann. §§ 21-2-408(b)(1), (2)). Each poll watcher shall be given a letter signed by the appropriate party chairperson and secretary containing the following information: name of the poll watcher, address, precinct in which they will serve or a statement that the watcher is a state-wide watcher, and the date of the election. (*Id.*). At least three days prior to the election, a copy of the letter must be delivered to the superintendent of the county or municipality in which the watcher will serve. (*Id.*). The same system of local and state-wide poll watchers applies to the advance voting period, except the deadlines are measured from the start of advance voting, rather than the general election. (Ga. Code. Ann. § 21-2-408(b)(3)).

Challengers:

Any voter of a county or municipality may challenge the right of any person of the same jurisdiction to vote. (Ga. Code. Ann. § 21-2-230(a)). There is no formal credentialing process for challengers.

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

Poll Watchers:

Watchers must complete training provided by a political party, political body, or a candidate before they may serve. (Ga. Code Ann. § 21-2-408(e)). There is no residency requirement for watchers.

Challengers:

Voters must reside in the same county or municipality as the voter they are challenging. (Ga. Code Ann. § 21-2-230(a)).



WHAT PRIVILEGES OR SPECIAL RIGHTS DO WATCHERS OR CHALLENGERS HAVE AT POLLING SITES?

Poll Watchers:

Credentialed poll watchers are allowed “behind the enclosed space” (Ga. Code Ann. § 21-2-267) for the purpose of observing the conduct of the election and counting and recording votes. (Ga. Code Ann. § 21-2-408(d)). If a jurisdiction uses electronic or optical-scanning voting systems, watchers may remain in the check-in area, computer room, the duplication area, and other areas as the superintendent deems necessary to ensure fair and honest procedures in the tabulating center. (Ga. Code Ann. § 21-2-408(c)). However, it should be noted that poll managers may make reasonable regulations to ensure that poll watchers do not interfere with the conduct of an election. (Ga. Code Ann. § 21-2-408(d)).

Challengers:

No explicit privileges or rights exist for challengers beyond the right to challenge a voter of the same county or municipality. There are no limits on the number of challenges a voter may make. (Ga. Code Ann. § 21-2-230(a)).

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

Poll Watchers:

Watchers are prohibited from talking to voters, checking voter rolls, or from using photography or cell phones. (Ga. Code Ann. § 21-2-408(d)). The poll manager or superintendent may remove a watcher for interfering with the conduct of the election or for violating any provisions of the election code. (*Id.*). Watchers must also report any infraction or irregularity to the superintendent of the county or municipality where the election is held, not the poll manager. (*Id.*). Watchers are also required to wear an “Official Poll Watcher” badge at all times while on duty. (*Id.*).

Challengers:

There are no explicit restrictions specifically on challengers’ behavior.



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

Georgia law treats interference with elections as a felony offense punishable by imprisonment of up to ten years or a fine of up to \$100,000. (Ga. Code Ann. § 21-2-566). Prohibited behavior includes:

- Preventing or attempting to prevent a poll officer from holding an election;
- Using or threatening violence in a manner that would prevent a poll officer from executing their duties;
- Blocking or attempting to block entry to any polling place;
- Using or Threatening violence in a manner that prevents voters from voting;
- Preparing or presenting to a poll officer a fraudulent voter's certificate;
- Depositing fraudulent votes in a ballot;
- Registering fraudulent votes on any voting machine;
- Tampering with any electors list, voter's certificate, numbered list of voters, ballot box, voting machine, direct recording electronic equipment, electronic ballot marker, or tabulating machine. (Ga. Code Ann. § 21-2-566).

Georgia law also separately prohibits a variety of activities that interfere with the voting process, including voter intimidation, providing unlawful assistance to voters, observing voters while casting ballots, photographing ballots, and interfering with poll officers, and other offenses. (*E.g.*, Ga. Code Ann. §§ 21-2-567, 21-2-568, 21-2-568.1, 21-2-568.2, 21-2-569).

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

Georgia does not appear to impose any specific civil or criminal penalties for interfering with the lawful activities of watchers or challengers. However, any public officer who willfully neglects or refuses to perform any duty under the election laws commits a misdemeanor. (Ga. Code Ann. § 21-2-596). Similarly, any person who “intentionally interferes with, hinders, or delays or attempts to interfere with, hinder, or delay any other person in the performance of any act . . . authorized” by the election laws commits a misdemeanor. (Ga. Code Ann. § 21-2-597). These acts may be punished by fines of up to \$1,000 and imprisonment for up to one year. (Ga. Code Ann. § 21-2-599).



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. (Ky. Rev. Stat. § 117.315(1)). County party committees shall present a list of certified challengers to the county clerk at least twenty days before the primary. (*Id.*).

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. (Ky. Rev. Stat. § 117.315(3)). 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. (*Id.*).

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).



Louisiana

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

Poll Watchers:

Louisiana permits appointed poll watchers to observe conduct at the polls. (La. Rev. Stat. § 18:435(A)(1)(a)).

Challengers:

In Louisiana a watcher or registered voter may challenge any voter's right to vote in the election. (La. Rev. Stat. § 18:565(A)).

HOW ARE WATCHERS AND CHALLENGERS APPOINTED OR DESIGNATED?

Poll Watchers:

Each candidate on the ballot is entitled to have one watcher at every precinct on election day. (La. Rev. Stat. § 18:435 (A)(1)(a)). Candidates shall file one list of watchers on a form provided by the secretary of state, signed by the candidate, and delivered to the clerk of court before 4:30 pm on the tenth business day before election day. (La. Rev. Stat. §§ 18:435(A)(1)(a), (B)(1)(a)). In the case of a presidential election, each slate of candidates is entitled to one watcher at every precinct. (La. Rev. Stat. § 18:435(A)(1)(b)). The state central committee of each party on the ballot is responsible for filing the list of watchers, and the list shall be signed by the chairman. (*Id.*). Additionally, candidates may designate one “super watcher” who shall be admitted as a watcher in every precinct. (La. Rev. Stat. § 18:435(A)(1)(b)(2)). Commissioners may reduce the number of poll watchers within a polling place if there are too many watchers to allow for the orderly conduct of the election. (La. Rev. Stat. § 18:427(C)).

Challengers:

There is no formal credentialing process for challengers in Louisiana.



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

Poll Watchers:

Watchers must be registered Louisiana voters. (La. Rev. Stat. § 18:427(A)). Training is not required.

Challengers:

Persons attempting to challenge other voters must be registered Louisiana voters. (La. Rev. Stat § 18:565(A)).

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

Poll Watchers:

On election day, watchers shall be admitted within all parts of the polling place and provided access to printing results from voting machines. (La. Rev. Stat. § 18:427(B)). Watchers may also keep notes recording conduct during the election. (*Id.*).

Challengers:

No explicit privileges or additional rights exist for individuals making challenges. There are no limits on the number of good faith challenges a person may bring.

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

Poll Watchers:

Watchers are prohibited from taking part in the printing of results from voting machines. (La. Rev. Stat. § 18:427(B)). Watchers also may not electioneer, engage in political discussions, or cause unnecessary delay for voters. (*Id.*). Watchers remain subject to the authority of election commissioners and may not interfere in a commissioner's performance of their duties. (*Id.*).

Challengers:

There are no explicit restrictions for persons attempting to challenge other voters, but general rules of conduct apply.



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

Failure to obey lawful instructions from officials seeking to maintain order at a polling place may be punished by a fine of up to \$500 or six months in the parish jail. (La. Rev. Stat. §§ 18:1461.3(C)(4), (D)). Louisiana law also imposes criminal penalties on intimidating or threatening voters or election officials. (La. Rev. Stat. §§ 18:1461.4, 1461.5).

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

A person who knowingly, willfully, or intentionally attempts to “influence” a poll watcher in the performance of his duties on election day may be fined up to \$500 or imprisoned in the parish jail for up to six months. (La. Rev. Stat. §§ 18:1461.3(C)(4), (D)).



Michigan

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

Poll Watchers:

In Michigan, the general public is permitted to observe conduct at polling places on election day. (Michigan Department of State Bureau of Elections, The Appointment, Rights, and Duties of Election Challengers and Poll Watchers, Pg. 23 (May 2022)). There is no formal credentialing procedure for poll watchers, and poll watchers do not need to be registered to vote. *Id.* A candidate for elective office being voted on in the election, however, cannot serve as a poll watcher. *Id.*

Challengers:

Michigan allows the following “credentialing organizations” to appoint and credential challengers:

- State-recognized political parties;
- An organized group of citizens in favor or opposed to ballot questions;
- An organized group of citizens interested in preserving the purity of elections and guarding against the abuse of the elective franchise; or
- Incorporated organizations. (Michigan Department of State Bureau of Elections, The Appointment, Rights, and Duties of Election Challengers and Poll Watchers, Pg. 1 (May 2022)); see also (MCL § 168.730(1)).

A person cannot serve as a challenger if they are:

- Serving as an election inspector during the same election;
- Running for nomination or for office during the same election, with the exception that precinct delegate candidates can serve as challengers so long as they do not serve at the precinct in which they are running for office. (Michigan Department of State Bureau of Elections, The Appointment, Rights, and Duties of Election Challengers and Poll Watchers, Pg. 3 (May 2022)); see also MCL § 168.730(2).



Further, a registered voter of a precinct who is present at that precinct on Election Day may challenge the eligibility of another person to vote in that precinct if the challenging voter knows or has good reason to suspect that the challenged person is not eligible to vote in that precinct. (Michigan Department of State Bureau of Elections, *The Appointment, Rights, and Duties of Election Challengers and Poll Watchers*, Pg. 1 (May 2022)); see also (MCL § 168.727(1)). All persons attempting to challenge another voter, whether as an appointed challenger or as a member of the public, must be registered Michigan voters. (MCL §§ 168.727(1), 168.730(2)).

Challenge to a Voter's Eligibility

A challenger may make a challenge to a voter's eligibility to cast a ballot only if the challenger has a good reason to believe that the person in question is not a registered voter. (Michigan Department of State Bureau of Elections, *The Appointment, Rights, and Duties of Election Challengers and Poll Watchers*, Pg. 11 (May 2022)). There are four permissible reasons to challenge a voter's eligibility:

- The person is not registered to vote;
- The person is less than 18 years of age;
- The person is not a United States citizen; or
- The person has not lived in the city or township in which they are attempting to vote for 30 or more days prior to the election. *Id.* at 11–12.

In addition to citing one of the four permissible causes for a challenge, a challenger must state the reason the challenger holds that belief. *Id.* at 12.

Challenge to an Absent Voter in the Polls

A challenger may also make a challenge to an absent voter in the polls. (Michigan Department of State Bureau of Elections, *The Appointment, Rights, and Duties of Election Challengers and Poll Watchers*, Pg. 16 (May 2022)). A voter who requested an absent voter ballot may vote in person so long as their local clerk has not received their absent voter ballot by Election Day. (*Id.*). In some situations these voters may be subject to challenge as an absent voter in the polling place. (*Id.*). A voter is subject to challenge as an absent voter in the polling place only if the poll book indicates that an absent voter ballot was sent to the voter and only if the voter does not surrender the absent voter ballot at the polling place on Election Day. (*Id.*).



Challenge to an Election Process

A challenger may make a challenge to an election process. (Michigan Department of State Bureau of Elections, *The Appointment, Rights, and Duties of Election Challengers and Poll Watchers*, Pg. 18 (May 2022)). A challenger may challenge a voting process, including the way that election inspectors are operating a polling place or processing absent voter ballots at an absent voter ballot processing facility. (*Id.*). A challenge to an election process must state the specific element or elements of the process that the challenger believes are being improperly performed and the basis for the challenger's belief. (*Id.*).

Lastly, all challenges must be made to a challenger liaison, who determines if the challenge is permissible. (Michigan Department of State Bureau of Election, *The Appointment, Rights, and Duties of Election Challengers and Poll Watchers*, Pg. 10 (May 2022)). Assuming the challenge is permissible, (1) the substance of the challenge, (2) the time of the challenge, (3) the name of the challenger, and (4) the resolution of the challenge must be recorded in the poll book. (*Id.*). If the challenge is rejected, the reason for the rejection must be recorded in the poll book. (*Id.*). An impermissible challenge need not be noted in the poll book. (*Id.*).

HOW ARE WATCHERS AND CHALLENGERS APPOINTED OR DESIGNATED?

Poll Watchers:

There is no formal credentialing process for poll watchers in Michigan.

Challengers:

In Michigan, challengers are appointed by political parties, incorporated organizations, and organizations in favor or opposed to ballot questions, or organized groups interested in preserving the purity of elections and in guarding against the abuse of the elective franchise. (MCL § 168.730(1)). Not more than two challengers appointed by the same political party or sponsoring organization may serve at a precinct and not more than one challenger appointed by the same political party or sponsoring organization may serve on a counting board. (MCL § 168.730(1)).

Additionally, any registered voter of a precinct may challenge the right of anyone attempting to vote if they know or have good reason to suspect that individual is not a registered voter in that precinct. (MCL § 168.727(1)). No appointment or designation is required for one registered voter to challenge another voter of the same precinct. (*Id.*).



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

Poll Watchers:

There are no residency or training requirements for poll watchers in Michigan.

Challengers:

Appointed challengers must be registered Michigan voters. (MCL § 168.730(2)). Otherwise, persons attempting to challenge other voters must be registered voters of the precinct in which they wish to challenge other voters. (MCL § 168.727(1)). There are no training requirements for challengers. However, credentialing organizations are strongly encouraged to provide challengers with training on both the basic aspects of election administration in Michigan and the rights and duties of challengers in Michigan. (Michigan Department of State Bureau of Elections, The Appointment, Rights, and Duties of Election Challengers and Poll Watchers, Pg. 3 (May 2022)).

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

Poll Watchers:

Poll watchers are permitted to be present in a polling place or an absent voter ballot processing facility and observe the electoral process so long as the total number of poll watchers does not cause the process to be disrupted. (Michigan Department of State Bureau of Elections, The Appointment, Rights, and Duties of Election Challengers and Poll Watchers, Pg. 23 (May 2022)). Clerks or challenger liaisons must designate a Public Viewing Area from which watchers can observe the electoral process. (*Id.*). A poll watcher may request that the challenger liaison allow the watcher to view the poll book without handling it, but the challenger liaison may decline the request. (*Id.* at 24).



Challengers:

Challengers have the right to:

- Be present in the polling place;
- Make challenges to the challenger liaison or the challenger liaison's designee;
- Be treated with respect by election inspectors;
- Be provided with reasonable assistance in performing their duties as a challenger;
- Inspect applications to vote, registration lists, and other printed materials used to conduct elections, so long as the challenger does not touch or handle any of those materials and so long as the inspection does not impede the voting process;
- Observe election inspectors' preparation of voting equipment at the polling place before the opening of the polls on Election Day, and observe election inspectors' handling of voting equipment after the close of polls on Election Day, so long as the challenger does not touch or handle any of that equipment and so long as that observation does not impede the election inspectors in completion of their duties;
- Observe the election process from a reasonable distance, so long as election inspectors have sufficient room to perform their duties and voters are not impeded in any way;
- If serving in a polling place on Election Day, to use electronic devices, so long as the device is not disruptive and so long as the device is not used to make video or audio recordings of the polling place;
- Observe election-related activities at a polling place on Election Day at any time the polling place is open to the public, including prior to the opening of polls or after the closing of polls;
- Take notes about the election process;
- Notify the challenger liaison of perceived violations of election laws by third parties, including electioneering within 100 feet of the precinct, improper handling of a ballot by a voter, or other issues;
- Remain in the precinct after the close of polls or the end of tabulation and until the election inspectors complete their duties;
- If serving in a polling place where ballots are being issued, stand behind the processing table and close enough to view the poll book as ballots are issued to voters and the voters' names are entered into the poll book, so long as the challenger does not touch or handle the poll book or otherwise interfere with the work of the election inspectors; and



- If serving at an absent voter ballot processing facility, to stand in a location where the tabulation of absent voter ballots can be observed, or to stand in a location where the entry of the names of voters whose ballots are being processed into the poll book can be viewed, so long as the challenger does not touch or handle any election-related materials. (Michigan Department of State Bureau of Elections, The Appointment, Rights, and Duties of Election Challengers and Poll Watchers, Pg. 20 (May 2022)).

WHAT ARE WATCHERS AND CHALLENGERS RESTRICTED FROM DOING AT THE POLLS?

Poll Watchers:

Poll watchers are subject to all of the same restrictions as credentialed challengers. In addition, poll watchers cannot:

- Issue challenges;
- Stand behind the election inspectors as voters are processed; or
- Be present in any part of the polling place, clerk's office, or absent voter ballot processing facility except the designated Public Viewing Area. (Michigan Department of State Bureau of Elections, The Appointment, Rights, and Duties of Election Challengers and Poll Watchers, Pg. 24 (May 2022)).

A poll watcher who repeatedly fails to follow instructions, who acts in a manner that disrupts the peace or order of the polling place or absent voter ballot processing facility, who acts to delay the work of any election inspector, or who threatens or intimidates a voter, election inspector, or election staff, may be ejected by any election inspector. If the poll watcher refuses to leave after being informed of their ejection by an election inspector, the election inspector may request law enforcement remove the poll watcher. (Michigan Department of State Bureau of Elections, The Appointment, Rights, and Duties of Election Challengers and Poll Watchers, Pg. 24 (May 2022)).

Challengers:

Challengers may not make a challenge indiscriminately without good cause; handle poll books while observing election procedures or ballots during the counting process; or interfere with or unduly delay the work of election inspectors. Any individual who challenges another voter for the purpose of annoying or delaying voters is guilty of a misdemeanor. (MCL § 168.727(3)).



Challengers are additionally prohibited from:

- Speaking with or interacting in any way with voters;
- Threatening or intimidating voters or election inspectors, or attempting to threaten or intimidate voters or election inspectors at any stage of the voting process;
- Speaking with or interacting with election inspectors who are not the challenger liaison or the challenger liaison's designee, unless given explicit permission by the challenger liaison or a member of the clerk's staff;
- Making repeated impermissible challenges;
- Making a challenge indiscriminately or without good cause, or for the purpose of harassing, delaying, or annoying voters, election inspectors, or any other person;
- Physically touching or interacting with ballots, absent voter ballot envelopes, electronic poll books, physical poll books, or any other election materials;
- Standing so close to the poll book or other materials that the challenger's proximity to those materials interferes with the election inspectors' ability to perform their duties;
- Using a device to make video or audio recordings in a polling place, clerk's office, or absent voter ballot processing facility;
- Providing or offering to provide assistance to voters;
- Wearing any clothing or other apparel relating to any party, candidate, or proposition on the ballot or which disrupts the peace or order of the polling place, unless the challenger is serving at an absent voter ballot processing facility and is given permission or instructed to wear such an identifier;
- Wearing clothing or other apparel expressly advocating for or against the election of a candidate or advocating the passage or defeat of a ballot measure;
- Setting up a table or other furniture in the polling place;
- If serving at an absent voter ballot processing facility, possessing a mobile phone or any other device capable of sending or receiving information between the opening and closing of polls on Election Day; or
- Taking any actions to disrupt or interfere with voting, ballot tabulation, or any other election process. (Michigan Department of State Bureau of Elections, The Appointment, Rights, and Duties of Election Challengers and Poll Watchers, Pg. 21 (May 2022)).



A challenger who repeatedly fails to follow any of the instructions or directions set out in this manual or issued by election inspectors may be ejected by any election inspector. A challenger who acts in a manner that disrupts the peace or order of the polling place or absent voter ballot processing facility, who acts to delay the work of any election inspector, or who threatens or intimidates a voter, election inspector, or election staff, may also be ejected by any election inspector. The ejection should be noted in the poll book. If the challenger refuses to leave after being informed of their ejection by an election inspector, the election inspector may request law enforcement remove the challenger. (Michigan Department of State Bureau of Elections, The Appointment, Rights, and Duties of Election Challengers and Poll Watchers, Pg. 22 (May 2022)).

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

In Michigan, it is a misdemeanor to attempt to persuade a voter to vote for a particular candidate or ballot issue at a polling site. (MCL § 168.931). It is a felony to attempt to bribe or use corrupt means to influence a voter (MCL § 168.932).

It is a misdemeanor for an election inspector or any other person in a polling room, in a compartment connected to a polling room, or within 100 feet from any entrance to a building in which a polling place is located shall not persuade or endeavor to persuade a person to vote for or against any particular candidate or party ticket or for or against any ballot question that is being voted on at the election. (MCL § 168.744 (1)). A person shall not place or distribute stickers, other than stickers provided by the election officials pursuant to law, in a polling room, in a compartment connected to a polling room, or within 100 feet from any entrance to a building in which a polling place is located. (Id.).

It is a felony for a person, at an election, to falsely impersonate another person, or vote or attempt to vote under the name of another person, or induce or attempt to induce a person to impersonate another person or to vote or attempt to vote under the name of another person. (MCL § 168.932a (a)).

It is a felony for a person to intentionally misrepresent by word or act in a polling place on election day that he or she is an election official if that person is not an election official. (MCL § 168.932e).



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

Michigan law imposes a fine not exceeding \$1,000 or a prison sentence of not more than two years on election officials who prevent the lawful presence of a challenger. (MCL § 168.734).



Minnesota

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

Poll Watchers:

Minnesota does not provide for poll watchers other than appointed challengers. (Minn. Stat. Ann. § 204C.06, subd. 2).

Challengers:

A limited number of appointed challengers is permitted at each precinct. (Minn. Stat. Ann. § 204C.07). Other voters may also challenge a person's right to vote, though a voter who is not an appointed challenger has no right to enter a polling place solely for the purpose of challenging others' right to vote. (Minn. Stat. Ann. §§ 204C.06, subd. 2 & 204C.12, subd. 1).

HOW ARE CHALLENGERS APPOINTED OR DESIGNATED?

Challengers:

In partisan elections, the chair of an authorized committee in each major political party appearing on the ballot may appoint by written certificate challengers at polling sites for each precinct. (Minn. Stat. Ann. § 204C.07, subd. 1.). Only one challenger at a time from each party shall be allowed to remain in the polling place. (*Id.*).

ARE THERE ANY RESIDENCY OR TRAINING REQUIREMENTS FOR CHALLENGERS?

Challengers:

An appointed challenger must be a resident of the state but does not need to be a resident of the precinct served. (Minn. Stat. Ann. § 204C.07, subd. 3(a)). No training is required.



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

Challengers:

Challengers are one of a few select categories of individuals permitted to remain inside polling places while voting is occurring. (Minn. Stat. Ann. § 204C.06, subd. 2). Challengers are permitted to be present in the polling place during the hours of voting and to remain there until the votes are counted and the results declared. (Minn. Stat. Ann. § 204C.07, subd. (4)).

WHAT ARE CHALLENGERS RESTRICTED FROM DOING AT THE POLLS?

Challengers:

Challengers shall not handle or inspect registration cards, files, or lists. (Minn. Stat. Ann. § 204C.07, subd. 4). Challengers shall not prepare lists of individuals who have or have not voted. (*Id.*). They also may not attempt to influence voting or speak with any voter except to determine whether the voter is eligible to vote. (*Id.*). Minnesota's Secretary of State website also instructs that challengers may not:

- Take photos within the polling place;
- Go within six feet of the ballot counter (unless given lawful permission to do so by an election judge); or
- Disrupt the polling place. (Minnesota Secretary of State, Rules for Challengers).

Further, challengers may only contest a voter's eligibility if they state under oath that they have personal knowledge of the voter's ineligibility (Minn. Stat. Ann. §§ 204C.12, subd. 1, subd. 2.). Suspicion is not a basis for making a challenge. (Minnesota Secretary of State, Rules for Challengers). The challenger must personally know that a specific person is not eligible to vote for a specific reason. (*Id.*). Challengers also must not challenge a person's right to vote based on a list of voters compiled on the basis of mail that was returned undeliverable or on the basis of registered mail the receipt of which was not acknowledged by the intended recipient. (Minn. Stat. Ann. § 204C.07, subd. 5).



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

Minnesota Stat. Ann. § 204C.06 defines general conduct allowed at and near polling places. It sets criminal penalties for damaging or removing election materials and permits the removal of any person who persists in disorderly conduct after receiving a warning. (Minn. Stat. Ann. §§ 204C.06, subd. 3, subd. 5). Minnesota law defines undue influence on voters as a gross misdemeanor. (Minn. Stat. Ann. § 211B.07).

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

An election judge “who fails to carry out the duties” corresponding with a challenge is deemed to be guilty of a gross misdemeanor. (Minn. Stat. Ann. § 204C.12, subd. (5)). In addition, any election officer or other individual who intentionally fails or refuses to perform a required act or intentionally commits a prohibited act commits a felony if no other punishment has been expressly provided by law. (Minn. Stat. Ann. § 204C.41).



Nevada

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

Poll Watchers:

Members of the general public are allowed to observe conduct at polling places in Nevada. (Nev. Rev. Stat. § 293.274). Polling places include, without limitation, a polling place for early voting and a vote center. (Nev. Admin. Code § 293.245(1)).

Challengers:

Between the 30th day and the 25th day before an election, a registered voter may file a written challenge with the county clerk challenging the right to vote of any other voter of the same precinct. (Nev. Rev. Stat. §§ 293.547(1), (2)(a)). Otherwise, any registered voter may orally challenge the right to vote of any other voter of the same precinct while at the polling place. (Nev. Rev. Stat. § 293.303(1)(a)).

HOW ARE WATCHERS AND CHALLENGERS APPOINTED OR DESIGNATED?

Poll Watchers:

Members of the public who wish to observe the polls must sign a prescribed form acknowledging applicable rules. (Nev. Admin. Code § 293.245(2)). The county or city clerk may limit the number of poll watchers to ensure public safety, protect voter privacy, or maintain order. (Nev. Admin. Code § 293.245(3)(a)).

Challengers:

There is no formal credentialing process for challengers in Nevada, beyond the requirement that challengers come from the same precinct as the challenged voter.



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

Poll Watchers:

There are no residency or training requirements for watchers.

Challengers:

Challengers are required to be registered voters in the same precinct as the voter they challenge. (Nev. Rev. Stat. § 293.303(1)(a)). There are no training requirements for challengers.

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

Poll Watchers:

A person observing the conduct of voting at a polling place may remain in an area designated by the chair of the election board to observe the activities conducted at the polling place without interfering with the voting. (Nev. Admin. Code § 293.245(6)). The designated area must allow for “meaningful observation,” but must not be located in an area that would allow an observer to infringe on the privacy and confidentiality of the ballot of the voter. (*Id.*). “Meaningful observation” means a person may observe:

- The identification of voters who appear at a polling place to vote;
- The distribution of a ballot or voting machine card to a voter;
- The movement of a voter to a voting booth;
- The return of a ballot or voting machine card by a voter; and
- The exiting of a polling place by a voter. (Nev. Admin. Code § 293.245(9)(b)).

It should be noted that “meaningful observation” does not permit an observer to:

- View the personal information of a voter, a voter’s ballot or selections on a voting machine, or
- Listen to any conversation between election board officers or between a voter and an election board officer. (Nev. Admin. Code §§ 293.245(9)(b)(1), (2)).



Challengers:

Beyond the right to challenge, there are no privileges or special rights for challengers.

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

Poll Watchers are prohibited from:

- Talking to voters within the polling place;
- Using a mobile telephone computer within the polling place;
- Advocating for or against a candidate, political party, or ballot question;
- Arguing for or against or challenging any decisions of county or city election personnel; or
- Interfering with the conduct of voting. (Nev. Admin. Code § 293.245(2)(a)).

Further, watchers must wear a name tag with their full name and may be removed from the polling place by the county or city clerk for violating any state laws or regulations. (Nev. Admin. Code. §§ 293.245(3)(b), (7)).

Challengers:

Individuals who initiate a challenge must submit an affirmation signed under penalty of perjury that the challenge is based on personal knowledge of the registered voter. (Nev. Rev. Stat. § 293.303(1)(a)).

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

Nevada state law imposes various civil and criminal penalties on a number of activities that threaten the voting process. (See Nev. Rev. Stat. §§ 293.700 – 293.830). For example, bribery of voters, voter intimidation, unlawful interference with the conduct of an election, and tampering with election equipment are felonies in Nevada. (Nev. Rev. Stat. §§ 293.700, 293.710, 293.730, 293.755). Violations such as these may also give rise to civil penalties of up to \$20,000 per violation. (Nev. Rev. Stat. § 293.840).



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

Nevada does not appear to impose any civil or criminal penalties specifically for interfering with the lawful activities of watchers or challengers.



North Carolina

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

Poll Watchers:

North Carolina permits appointed poll observers to observe conduct at the polls. (N.C.G.S. § 163-45).

Challengers:

Any registered voter may challenge the right to vote of any other voter of the same county. (N.C.G.S. § 163-87).¹⁴

HOW ARE WATCHERS AND CHALLENGERS APPOINTED OR DESIGNATED?

Poll Watchers:

In North Carolina, observers are appointed by the chair of each county political party and the chairs of each state political party. (N.C.G.S. § 163-45(a)). County chairs designate two observers to attend each voting site, and also have the right to designate 10 additional at-large observers who may attend any voting site in the county they reside. State chairs may designate 100 additional at-large observers who may attend any polling place in the state. (Id). Individuals authorized to appoint observers must, prior to 10:00 A.M. on the fifth day prior to any primary or general election, submit in writing to the chair of the county board of elections two signed copies of a list of observers appointed by them, designating the precinct or at-large status for which each observer is appointed. (N.C.G.S. § 163-45(b)).

Challengers:

There is no formal credentialing process for challengers in North Carolina.

¹⁴ Validity of N.C.G.S. § 163-87(5) called into doubt by *North Carolina State Conference of NAACP v. Cooper*, 430 Supp. 3d 15 (M.D.N.C. 2019).



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

Poll Watchers:

Observers appointed by county party chairs must reside in that county. Observers appointed by state party chairs only need to be residents of the state. (N.C.G.S. § 163-45(a)). North Carolina does not require formal training for observers, but training is provided in some counties.

Challengers:

Challengers are required to be registered voters in the same county as the voter that they challenge. (N.C.G.S. § 163-87).¹⁵ There are no training requirements for challengers.

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

Poll Watchers:

Observers are allowed in the voting enclosure (the room within a polling site where voting takes place) while voting occurs. (N.C.G.S. § 163-166.3(a)(2)). Generally, observers must be permitted to make such observations and take notes as they wish. (N.C.G.S. § 163-45(c)). Observers are additionally allowed to request at least three times during the election day a list of people who voted in the precinct so far that day. (N.C.G.S. § 163-45(d)).

Challengers:

Challengers are permitted to enter the voting enclosure to enter or explain a challenge. (N.C.G.S. § 163-166.3(a)(5)).

¹⁵ Validity of N.C.G.S. § 163-87(5) called into doubt by *North Carolina State Conference of NAACP v. Cooper*, 430 Supp. 3d 15 (M.D.N.C. 2019).



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

Poll Watchers:

Watchers are broadly prohibited from any conduct that would impede the voting process and from interfering with or communicating with voters. (N.C.G.S. § 163-45(c)).

Challengers:

If a challenger is disruptive at a board of elections meeting where the votes are being counted or certified, the individual could be removed and charged with a Class 2 Misdemeanor. (N.C.G.S. § 143-318.17). Challenges must be written separately under oath and on forms prescribed by the State Board of Elections and must specify the reasons why the challenged voter is not entitled to register, remain registered, or qualified vote. (N.C.G.S. § 163-85(b)). Challenges may only be made for one or more of the following reasons:

- A person is not a resident of the State of North Carolina;
- A person is not a resident of the county in which the person is registered, provided that no such challenge may be made if the person removed his residency, and the period of removal has been less than 30 days;
- A person is not a resident of the precinct in which the person is registered, provided that no such challenge may be made if the person removed his residency, and the period of removal has been less than 30 days;
- A person is not 18 years of age, or if the challenge is made within 60 days before a primary, that the person will not be 18 years of age by the next general election;
- A person who, after committing a felony, has not had their citizenship restored pursuant to N.C.G.S. § 13-1;¹⁶
- A person has been adjudged guilty of a felony in another state for acts that would also be a felony if committed in North Carolina and has not had their rights of citizenship restored (N.C.G.S. § 163-55(a)(2));
- A person is dead;
- A person is not a citizen of the United States;
- With respect to municipal registration only, that a person is not a resident of the municipality in which the person is registered;
- A person is not who they represent themselves to be. (N.C.G.S. § 163-85(c)).

¹⁶ At the time of writing, certain aspects of this statute were in active litigation in the North Carolina courts. Please consult local elections experts regarding the status and scope of this provision.



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

In North Carolina, it is a misdemeanor to, amongst other things, interfere in an election or the voting process or to intimidate a person to vote a certain way. (N.C.G.S. §§ 163-271, 163-272.1, 163-273, 163-274).

It is a felony to give or receive anything for value in exchange for a vote, to vote more than once, to intimidate or threaten an election official, or for an election official to accept compensation other than that allowed by law. (N.C.G.S. § 163-275).

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

A precinct chief judge, judge, or officer who fails to allow observers or challengers the rights accorded by statute may be guilty of a misdemeanor for failure to discharge his or her duties. (N.C.G.S. § 163-274(a)(1)).



Pennsylvania

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

Poll Watchers:

In Pennsylvania, certified poll watchers are permitted to observe conduct at the polls. (25 P.S. § 2687).

Challengers:

Pennsylvania law provides for certified poll watchers and qualified electors to challenge the qualifications of others to vote. (25 P.S. § 3050(d)). (Note, however, that Pennsylvania’s election code does not enumerate a distinct “challenger” position.)

HOW ARE WATCHERS AND CHALLENGERS APPOINTED OR DESIGNATED?

Poll Watchers:

Each candidate appearing on the ballot is entitled to appoint two watchers for each election district. Additionally, each political party appearing on the ballot is entitled to appoint three watchers for each election district. (25 P.S. § 2687(a)). However, although candidates and parties may appoint several watchers to each district, only one watcher may be present in a polling place at one time for each candidate or party. (25 P.S. § 2687(b)).

Challengers:

Credentialing is not required to challenge voters.



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

Poll Watchers:

Each watcher must be a registered voter of the county in which they serve. (25 P.S. § 2687(b)). Each watcher shall be authorized to serve in the election district for which the watcher was appointed and, when the watcher is not serving in the election district for which the watcher was appointed, in any other election district in the county in which the watcher is a qualified voter. (*Id.*). Watchers are not required to be a resident in the election district for which they are appointed. (*Id.*). There are no training requirements for watchers.

Challengers:

Any qualified elector may challenge the right to vote of any voter. (25 P.S. § 3050(d)).

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

Poll Watchers:

Watchers are allowed in the polling place, are permitted to keep a list of voters, and are entitled to inspect the voting check list used by election officials. Watchers are also permitted to challenge the qualifications of voters. (25 P.S. § 2687(b)).

Challengers:

Persons attempting to challenge other voters have no special rights at polling places.



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

Poll Watchers:

Watchers may not engage in any of the following activity:

- Photographing or videotaping voters;
- Disseminating false or misleading election information to voters;
- Blocking the entrance to a polling place;
- Confronting, hovering, or directly speaking to or questioning voters;
- Threatening behavior; or
- Asking voters for documentation. (Pennsylvania Department of State, Guidance Concerning Poll Watchers and Authorized Representatives).

Further, watchers may only make good faith challenges to an elector's identity, continued residence in the election district, or qualifications as an eligible voter. (*Id.*). Watchers are required to direct their challenges directly to the Judge of Elections, who has the obligation to determine:

- Whether a challenge is based on actual evidence; and
- Whether there is a good faith basis to believe that the person is not, or may not be, a qualified elector. (*Id.*).

Challenges cannot be based on race, ethnicity, national origin, appearance, surname, language, religion or other characteristics not relevant to the qualifications to vote, and Pennsylvania law explicitly prohibits discriminatory challenges. (Pennsylvania Department of State, Guidance on Voter Intimidation and Discriminatory Conduct).

Watchers are also required to carry and present when requested certificates of credentialing issued by the County Board of Elections containing their name and candidate or party they represent. (25 P.S. § 2687(b)).



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

In Pennsylvania, attempting to intimidate a voter is punishable by civil fine of up to \$5,000 and imprisonment of up to two years. (25 P.S. §3547). According to guidance issued by the Secretary of the Commonwealth, voter intimidation includes:

- Aggressive or threatening behavior inside or outside the polling place;
- Blocking or interfering with access to:
 - The entrance or exit to the polling place;
 - Accessible accommodations for voters with disabilities; or
 - Voter sign-in tables or voting booths or voting machines.
- Direct confrontation or questioning of voters, including asking voters for documentation or proof of eligibility when none is required;
- Disrupting voting lines inside or outside of the polling place;
- Disseminating false or misleading election information, including information on voting eligibility, polling place procedures, polling place hours, or voting methods;
- Treating a voter differently in any way based on race, ethnicity, national origin, language, disability or religion;
- Aggressive or threatening brandishing of weapons;
- Photographing or videotaping voters to intimidate them;
- Posting signs in the polling place to intimidate voters or drive support for a candidate;
- Routine and frivolous challenges to voter's eligibility by election workers or private citizens that are made without a stated good faith basis;
- Questioning voters about citizenship, criminal record, or political choices;
- Using raised voices, screaming, yelling or shouting; use of insulting, offensive or threatening language; chanting taunts; or threatening songs inside the polling place;
- Vandalism of polling places or polling place equipment/materials;
- Verbal or physical confrontation of voters by persons dressed in official-looking uniforms;
- Falsely representing oneself as an election official or law enforcement authority;
- Violence or using the threat of violence to interfere with a person's right to vote; and
- Interfering with or violating a voter's right to a secret ballot at any point in the process. (Pennsylvania Department of State, Guidance on Voter Intimidation and Discriminatory Conduct).



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

Any member of a county board of elections, judge of elections or inspector who in any manner prevents a certified poll watcher from being present at the polls shall be guilty of a misdemeanor punishable by a fine of up to \$1,000, imprisonment of up to one year, or both. (25 P.S. §3506). A judge or inspector of elections who permits a challenged voter to vote without requiring proof of the right to vote when it is required by law commits a third-degree felony. (25 P.S. § 3523). Any person who threatens or drives away a watcher through force or intimidation is guilty of a misdemeanor. (25 P.S. § 3507).



Texas

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

Poll Watchers:

In Texas, appointed poll watchers are permitted to observe conduct at the polls. (Tex. Elec. Code § 33.001).

Challengers:

Texas does not allow for challengers.

HOW ARE OBSERVERS APPOINTED OR DESIGNATED?

Poll Watchers:

Poll watchers are appointed to observe the conduct of an election on behalf of a candidate (including a write-in candidate), a political party, or the proponents or opponents of a ballot measure. (Tex. Elec. Code §§ 33.001, 33.002 - 33.004). In an election on a ballot measure other than a referendum measure at a primary election, poll watchers may be appointed by the campaign treasurer or an assistant campaign treasurer of the specific political committee that supports or opposes the measure. (Tex. Elec. Code § 33.005). The appointing authority must issue a written certificate of appointment to the watcher and the watcher must deliver that certificate to the presiding judge when the watcher reports for service. (Tex. Elec. Code §§ 33.006, 33.051). Each appointing authority may appoint up to two watchers for each precinct polling place, meeting place for an early voting ballot board, or central counting station involved in the election. (Tex. Elec. Code § 33.007(a)). Each appointing authority may appoint up to seven watchers for each main or branch early voting polling place involved in the election. (Tex. Elec. Code § 33.007(b)). Not more than two watchers appointed by the same authority may be on duty at the same early voting polling place at the same time. (*Id.*). For watchers appointed by supporters or opponents of ballot measures, these numerical restrictions govern the total number of watchers for each side. (Tex. Elec. Code § 33.007(d)).



Challengers:

Texas does not allow for challengers.

ARE THERE ANY RESIDENCY OR TRAINING REQUIREMENTS FOR WATCHERS?

Poll Watchers:

To serve as a watcher in Texas, a person must be a registered voter:

- In the county where they serve, in an election ordered by the governor or a county authority in a primary election;
- In the part of the county in which the election held, in an election ordered by the governor or a county authority that does not cover the entire county of the person's residence. (Tex. Elec. Code §§ 33.031(a)(1), (2)).

Watchers must also complete training developed by the Secretary of State and deliver a certificate of completion from the training to the presiding judge when they report for service. (Tex. Elec. Code §§ 33.008, 33.051(a)(2)).

WHAT PRIVILEGES OR SPECIAL RIGHTS DO WATCHERS HOLD AT POLLING SITES?

Poll Watchers are permitted to:

- Observe any activity conducted at the location at which the watcher is serving and sit or stand near enough to election officers to see and hear them conducting any observed activity, except as specifically prohibited by the Elections Code. (Tex. Elec. Code § 33.056 (a)). This includes sitting or standing close enough to the member of a counting team who is announcing the votes to verify that the ballots are read correctly or to a member who is tallying the votes to verify that they are tallied correctly. (Tex. Elec. Code § 33.056 (b)). Except as provided by Section 33.057(b), a watcher may not be denied free movement where election activity is occurring at the polling location where the watcher is serving. (Tex. Elec. Code § 33.056(e)).¹⁷ Watchers are permitted to sit or stand close enough to any activity to see and hear the activity. (Tex. Elec. Code § 33.056 (f)).

¹⁷ As of this writing, this provision is currently being challenged in federal court on the grounds that it is unconstitutionally vague and will lead to improper interference with voting rights. See *La Union del Pueblo Entero et al. v. State of Texas et al.*, No. 5:21-cv-00844-XR (W.D. Tex.). Consult official sources before referring to this provision.



- Inspect the returns and other records prepared by the election officers at the location at which the watcher is serving. (Tex. Elec. Code § 33.056(c)).
- Make notes while on duty (though the presiding officer may require a watcher to leave the notes with another person, selected by the watcher, on duty at the polling place, prior to leaving the polling place while the polls are open for retention until the watcher returns to duty). (Tex. Elec. Code § 33.056(d)).
- Be present at the voting station when a voter is being assisted by an election officer and examine the ballot before it is deposited in the ballot box to determine whether it was prepared in accordance with the voter’s wishes. (Tex. Elec. Code § 33.057(a)).
- Call to the attention of and discuss with an election officer any occurrence that the watcher believes to be an irregularity or violation of law. (Tex. Elec. Code § 33.058(b)).
- Observe the inspection and securing of voting system equipment. (Tex. Elec. Code § 33.059).

Further, a presiding judge may not remove an appointed poll watcher from the polling place for violating a provision of the Election Code or any other provision of law relating to the conduct of elections, other than a violation of the Penal Code, unless the violation was observed by an election judge or clerk. (Tex. Elec. Code § 32.075(g)).¹⁸ A presiding judge may request that law enforcement remove a poll watcher who commits a breach of the peace or a violation of law. (Tex. Elec. Code § 32.075(h)). The appointing authority for a watcher who believes that the watcher was unlawfully prevented or obstructed from the performance of the watcher’s duties may seek:

- injunctive relief under Section 273.081, including issuance of temporary orders;
- a writ of mandamus under Section 161.009 or 273.061; and
- any other remedy available under law. (Tex. Elec. Code § 33.063).¹⁹

¹⁸As of this writing, this provision is currently being challenged in federal court on the grounds that it is unconstitutionally vague and will lead to improper interference with voting rights. See *La Union del Pueblo Entero et al. v. State of Texas et al.*, No. 5:21-cv-00844-XR (W.D. Tex.). Consult official sources before referring to this provision.

¹⁹As of this writing, this provision is currently being challenged in federal court on the grounds that it is unconstitutionally vague and will lead to improper interference with voting rights. See *La Union del Pueblo Entero et al. v. State of Texas et al.*, No. 5:21-cv-00844-XR (W.D. Tex.). Consult official sources before referring to this provision.



WHAT ARE WATCHERS RESTRICTED FROM DOING AT THE POLLS?

Poll watchers are prohibited from:

- Being present at the voting station when a voter is preparing the voter's ballot or is being assisted by a person of the voter's choice (Tex. Elec. Code § 33.057(b));
- Conversing with an election officer regarding the election, except to call attention to an irregularity or violation of law (Tex. Elec. Code § 33.058(a)(1));
- Conversing with a voter (Tex. Elec. Code § 33.058(a)(2));
- Communicating in any manner with a voter regarding the election (Tex. Elec. Code § 33.058(a)(3));
- At the meeting of an early voting ballot board or signature verification committee, or at a central counting station, leaving without the judge's permission once counting of the ballots has begun. (Tex. Elec. Code §§ 33.054, 33.055); or
- At a precinct polling place, leaving without judge's permission unless the worker has completed 5 consecutive hours of service, except to temporarily use a cell phone or similar device. (Tex. Elec. Code § 33.052).

Poll watchers who improperly leave may be barred from returning. (See Texas Secretary of State, Elections Division, Poll Watcher's Guide, Pg. 12).

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

Texas imposes penalties on a number of activities that interfere with the orderly conduct of elections, including unlawful presence at the polls, unauthorized access to ballots, and unlawful influence on voters. (See Tex. Elec. Code §§ 61.001, 61.003 – 61.008, 61.010).



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

An election official, or any person serving in an official capacity at a polling location, commits a Class A misdemeanor offense if they knowingly prevent a poll watcher from observing an activity that they are entitled to observe, including obstructing the poll watcher's view or distancing the watcher from the activity or procedure to be observed in a manner that would make observation not reasonably effective. (Tex. Elec. Code § 33.061).²⁰

²⁰As of this writing, this provision is being challenged in federal court on the grounds that it is unconstitutionally vague and will lead to improper interference with voting rights. See *La Unión del Pueblo Entero et al. v. State of Texas et al.*, No. 5:21-cv-00844-XR (W.D. Tex.). Consult official sources before referring to this provision.



Wisconsin

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

Poll Observers:

Any member of the public may be present at any polling place, in the office of any municipal clerk whose office is located in a public building on any day that absentee ballots may be cast in that office, or at an alternate site under Wis. Stat. § 6.855 on any day that absentee ballots may be cast at that site for the purpose of observation of an election and the absentee ballot voting process, except a candidate whose name appears on the ballot. (Wis. Stat. § 7.41(1)). The Wisconsin Election Commission has said that observers are also allowed at central counting locations. (Wisconsin Elections Commission, Election Administration Manual, pg. 183).

Challengers:

Any elector may challenge for cause any other person attempting to vote whom they know or suspect is not a qualified voter. (Wis. Stat. § 6.925).

HOW ARE OBSERVERS AND CHALLENGERS APPOINTED OR DESIGNATED?

Poll Observers:

There is no formal credentialing process for observers in Wisconsin.

Challengers:

There is no formal credentialing process for challengers in Wisconsin.



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

Poll Observers:

There are no residency or training requirements for observers in Wisconsin.

Challengers:

The Wisconsin Election Commission has interpreted Wis. Stat. § 6.925 to require that, in order to raise a challenge, electors must be “qualified electors[s] of the state.” (Wisconsin Elections Commission, Election Day Manual, pg. 74).

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

Poll Observers:

At the polls, the chief inspector or municipal clerk may designate observation areas for election observers that shall not be less than three feet and not more than eight feet from the table at which voters announce their name and address to be issued a voter number, and the same distance from the voter registration table. (Wis. Stat. § 7.41(2)). The observation areas must be positioned to allow any election observer to readily observe all public aspects of the voting process. (*Id.*).

Challengers:

Beyond the ability to challenge, there are no privileges or special rights for challengers.

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

Poll Observers:

To enter a polling place (other than to vote), observers must sign and date a log maintained by the chief inspector or municipal clerk of the polling place. (Wis. Stat. § 7.41(1)). The Wisconsin Election Commission has issued guidance stating that observers may not:



- Engage in electioneering;
- Use video or cameras;
- View registration forms and proof of residence documents;
- Handle official election documents; have conversations about candidates, parties, or ballot questions;
- Make phone calls;
- Wear clothing or buttons related to candidates, parties, or referenda that are intended to influence the election;
- Interact with voters unsolicited;
- View confidential information on the poll list; or
- Enter vehicles of curbside voters. (Wisconsin Elections Commission, Election Day Manual, pg. 173).

Observers remain under the purview of the chief inspector or municipal clerk and may be removed for committing an overt act that disrupts the operation of a polling place, clerk's office, or alternate absentee ballot site. (Wis. Stat. § 7.41(3)(a)). Observers may also be removed for electioneering during the hours that absentee ballots may be cast on any public property within 100 feet of an entrance to a building containing the municipal clerk's office or an alternate absentee ballot site in violation of Wis. Stat. § 12.03(2) or for posting or distributing election material in violation of Wis. Stat. § 12.035. (Wis. Stat. § 7.41(3)(b)).

Wisconsin law does not limit the number of observers, but the chief inspector may reasonably limit the number of observers representing the same organization and who are observing at the same time. (Wis. Stat. § 7.41(1)).

Challengers:

Challenges may only be brought if the challenging elector knows or suspects that any one of the following criteria apply to the person being challenged:

- The person is not a citizen of the United States;
- The person is not at least 18 years of age;
- The person has not resided in the election district for at least 28 days;²¹
- The person has a felony conviction and has not been restored to civil rights;
- The person has been adjudicated incompetent; or
- The person has voted previously in the same election. (Wis. Admin. Code § EL 9.02).

Any challenger who is deemed to have abused the right to challenge will be subject to removal by an inspector. (Wis. Admin. Code § EL 9.02).

²¹ Note that the administrative code lists the residency requirement as ten days, per the rule as originally promulgated. Wis. Adm. Code EL §9.02(2)(c). However, that requirement was subsequently changed to 28 days pursuant to litigation. *Luft v. Evers*, 963 F.3d 665, 668-69 (7th Cir. 2020).



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

No person may use force, violence, or restraint in order to induce or compel any person to vote or refrain from voting in an election. (Wis. Stat. § 12.09(1)). No person may by abduction, duress, or any fraudulent device or contrivance, impede or prevent the free exercise of the franchise at an election. (Wis. Stat. § 12.09(2)). No person may by any act compel, induce, or prevail upon an elector either to vote or refrain from voting at any election for or against a particular candidate or referendum. (See Wis. Stat. §§ 12.09(3)).

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

Wisconsin does not appear to impose any civil or criminal penalties for interfering with the lawful activities of watchers or challengers.



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.