

Midterms 2022: The Poll Observer Landscape | Minnesota

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

The States United Democracy Center’s report “Midterms 2022: The Poll Observer Landscape” examines the relevant laws governing poll observers. We use this term to describe both poll watchers, private individuals who observe the election process, and election challengers, who have many of the same privileges and can also dispute whether a prospective voter is eligible to cast a ballot. (Our definition of “poll observers” for the purposes of this report does not include poll workers or other categories of officials permitted to be present at polling places.). We intend for this report to provide guidance regarding the power, privileges, and limitations of poll observers to statewide elected officials, law enforcement professionals, elections administrators, election protection groups, and others—regardless of partisan affiliation.

This report includes detailed summaries of 12 key states that saw record voter participation, many of which were also subject to significant attempts to undermine the electoral process by a variety of partisan actors in 2020. These summaries provide a review of state regulatory schemes concerning poll observers, detailing credentialing and training requirements as well as rights and responsibilities afforded to both poll watchers and election challengers in each state. The state summary provided here is among those included in our full report. We have excerpted it for greater ease of use, as we hope that these summaries will support the administration of free, fair, and secure elections.

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



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).

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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.