

Midterms 2022: The Poll Observer Landscape | North Carolina

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.



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).¹

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.

¹ 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)² 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)).

² 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;³
- 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)).

³ 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)).

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.