

Election Observation: Rules and Laws

July 10, 2024

Author(s): Kate Murray

Other Contributors and Notes: This report updates the [Election Observation: Rules and Laws](#) report from the 2020 Stanford-MIT Healthy Elections Project, authored by Jacob McCall, Haley Schwab, and Mat Simkovitz. As such, some of the information included here originates from that document.

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Summary

Poll watchers play an important role on Election Day. The idea of citizens watching how ballots are received, maintained, and counted in the process of declaring an election winner is a [very old idea](#), and in many electoral contexts, can be [an essential tool](#) for evaluating the legitimacy of an election. The presence of outside observers at polling places, however, can also have many disruptive effects. Legislators, political parties, and activists, therefore, must [strike a balance](#) between safeguarding the rights of people to observe the polls while also placing sensible restrictions on those observers to maintain both the transparency of the election system and protect the safety and security of poll workers and the ballots that are in their custody.

Since the [laws and guidelines regarding election observation](#) are determined at the state level, the responsibilities and manner in which these workers are selected differ geographically. In some states, poll watchers are appointed by political party representatives, but in others, any member of the public can legally observe the election process and report procedural violations. Most states allow election observers to monitor the entire voting process, from voters casting ballots to election officials counting those ballots. In general, these poll watchers can report observed discrepancies in election procedures, including on-site electioneering and voter identification issues, and report them back to their respective board of elections. Some jurisdictions grant poll watchers the authority to challenge the authenticity of votes cast and seek verification before the ballot is processed. Furthermore, some states grant counties the authority to decide how election observation rules are implemented, as well as the nomination process for poll watchers.

Rules for Observers in Battleground States

Rules for voting in person, authenticating mail ballots, verifying signatures, and other Election Day procedures differ by state. This memo will cover election observation rules in nine battleground states: Arizona, Florida, Georgia, Michigan, Nevada, North Carolina, Ohio, Pennsylvania, and Wisconsin. Information about several other states is available from the United States Election Assistance Commission's [poll watcher information page](#).

Five of these states (Arizona, Florida, Georgia, North Carolina, and Pennsylvania) require election observers to be appointed or nominated by a county or state party chair. Nevada and Wisconsin allow any member of the public to observe elections. Both Michigan and Ohio have both party-appointed observers and nonpartisan observers. In Ohio, poll watchers are appointed by a political party and then undergo an extra step of approval by ballot initiative committees, which are formed to put an initiative on the ballot and transfer it into law. Regardless of geography and method of selection, all state electioneering laws prohibit observers from promoting specific candidates.

The variation in requirements for election observers extends to ballot tabulation. Arizona and Georgia designate party-nominated poll watchers to oversee this process. At the same time, Ohio appoints observers by political party as well as ballot initiative committees, whose members are not always selected via the parties. However, most battleground states we discuss (Florida, Michigan, North Carolina, Pennsylvania, and Wisconsin) employ a public oversight process in which any person can witness ballot tabulation. Overall, states do not allow poll watchers to interfere with the process; they are only permitted to observe.

Arizona

In [Arizona](#), political party observers are nominated by the county chair of each party. They are approved by the County Recorder to [observe](#) (1) specific voting locations on Election Day, (2) a central counting place, or (3) multiple voting locations. Parties may negotiate to have the same number of observers at each voting place; if an agreement cannot be reached, the parties are limited to one observer at each location.

Observers may be present during (1) the opening of polling places, (2) voting at polling places (although to uphold the integrity of the secret ballot, observers must maintain distance between themselves and the voter), (3) the closing of polling places, (4) the transport of ballots from polling places to a specified receiving site, and/or (5) any other significant voting or processing activity, including vote counting (this is only permitted inside the room where it takes place.) They may also record post-election audits with their own equipment, though this process is not necessarily subject to live video surveillance.

Arizona counties oversee the signature verification process under the supervision of the County Recorder. Up to two party observers are permitted to watch while the recorder (or

other election official) matches the signature on the affidavit with that on the voter's registration form. Maricopa County, among others, allows up to two public members to watch this process as well.

Florida

In [Florida](#), each political party is entitled to have one poll watcher in each precinct on Election Day, so long as they are not a member of law enforcement or a candidate on the ballot. Additionally, political committees formed to advocate for an issue on the ballot may have a poll watcher in each polling room. Poll watchers are permitted to observe the election process but are prohibited from “obstructing the orderly conduct of the election.” If questions related to procedure arise, they must be posed to the election clerk for resolution. Furthermore, if a poll watcher seeks to challenge the process for any reason, they must submit the charge in writing to the clerk with a completed “Oath of Person Entering Challenge” form.

Florida law also permits the appointment of deputies to the election board, which is tasked with upholding [election integrity](#) by the Department of State “at any time it deems fit; upon the petition of 5 percent of the registered electors; or upon the petition of any candidate, county executive committee chair, state committeeman or committeewoman, or state executive committee chair.” The deputies have greater observing rights than party-appointed poll observers including, “. . . access to all registration books and records as well as any other records or procedures relating to the voting process.” In addition, “[t]he deputy may supervise preparation of the voting equipment and procedures for election, and it shall be unlawful for any person to obstruct the deputy in the performance of his or her duty.”

Eligible voters of the general public are permitted to [inspect](#) ballots, be present for the [canvass](#) of mail ballots, and oversee the ballot tabulation process. If any of these observers believes “that any ballot is illegal due to any defect,” they may file a protest with the canvassing board. Additionally, candidates and their representatives are permitted to be present during the mail-in ballot inspection process, file protests with the canvassing board, and challenge the validity of any ballot (as long as the contestation occurs before the ballot has been removed from the mailing envelope.)

Georgia

In [Georgia](#), each political party is permitted to appoint two poll watchers per precinct, who must be nominated at least seven days before the election and will serve in the locations designated by the superintendent within the tabulating center. Each independent or nonpartisan candidate may also appoint one poll watcher. Similarly, at least seven days before the start of early voting, political parties or candidates must nominate poll watchers for early voting sites. Election observers can legally observe the election in any area the superintendent deems necessary to ensure fair and honest procedures in the tabulating center, including the check-in area, computer room, duplication area, and rooms where counting and recording of votes occur.

At least fourteen days before the election, political parties and independent candidates may designate up to 25 statewide poll watchers submitted to the State Election Board. These statewide observers may observe in any precinct and are permitted to move around to other precincts throughout Election Day but are otherwise subject to all limitations on precinct-nominated poll watchers. No more than two poll watchers from each political party or political body may be at the same precinct at the same time.

Testing voting equipment and counting ballots at tabulation centers and precincts are open to the [public](#). Unlike designated poll watchers, all general observers must stay outside the enclosed space during voting (though observers performing official election surveillance perform their duties in public).

Michigan

In [Michigan](#), two separate positions are tasked with observing elections: poll challengers and poll watchers. Poll challengers are appointed by state-recognized political parties, incorporated organizations, and political committees formed for the purpose of advocating for a particular ballot measure. They cannot be appointed by a candidate or group affiliated with a candidate. There can be no more than two challengers per precinct, and these officials must be registered voters in Michigan.

Poll challengers have significant latitude in their position compared to poll watchers. Challengers are permitted to observe the voting precincts and absentee voter counting board precincts, and examine voting equipment before and after polls are open. They may

also watch the processing of voters and inspect the pollbook, registration list, and other election materials. As their title suggests, poll challengers may challenge (with good reason) any person's right to vote in the precinct and the actions of election inspectors serving in the precinct. They may also report the improper handling of a ballot by a voter or precinct official, and they may challenge any voter who was issued an absentee ballot and appears to vote in person on Election Day.

On the other hand, poll watchers can be any non-candidate member of the public who wishes to observe the integrity of the election. Distinctions between poll watchers and challengers include the provision that watchers do not need to be registered to vote in Michigan, are not permitted to challenge a person's right to vote or the actions of the board, and are only allowed to observe until the polls close at 8 PM. Poll watchers are granted the authority to watch the ballot tabulation process and the conduct of the "absent voter counting board." Unlike election challengers, who may come and go as they please, an observing member of the public must remain in the room in which the board is working until the close of the polls.

Nevada

Nevada law [has a provision](#) for members of the general public to observe voting at polling places, with certain restrictions, including a prohibition on capturing the process of other people voting using photographs, video, or sound. These rules are distinct from those concerning members of the press at polling places. The number of election observers in the polling place can also be limited at [the discretion of the county or city clerk](#), in order to maintain safety at the polling place.

Poll watchers must also sign a form, which the Clark County Government describes as an agreement "(a) Not talk to voters within the voting site; (b) Not use a mobile telephone or computer within the voting site; (c) Not advocate for or against a candidate, political party, or ballot question; (d) Not argue for or against or challenge any decisions of county or city election personnel; and (e) Not interfere with the conduct of voting". Poll watchers who break this agreement can be removed from the polling place.

North Carolina

In North Carolina, county political party chairs can appoint [two election observers](#) per precinct, so long as they are registered to vote in that county and have “good moral character.” Party chairs are also allowed to appoint ten at-large election observers to go to any precinct in that county to observe the election process. Poll observers are required to be [unpaid](#), and no candidate for office can serve in the position.

Under North Carolina law, any registered voter in a particular county can challenge another person’s right to vote in that county. Since poll watchers must be registered to vote in the county in which they are observing, this grants them the authority to challenge any voter’s right to cast a ballot.

[Party-appointed](#) poll observers are barred from involvement in the signature verification process. However, North Carolina allows any member of the public to observe the ballot tabulation process (including absentee ballots) and voter equipment [testing](#).

Ohio

In [Ohio](#), three groups:

1. a county or state political party,
2. a group of five or more candidates, or
3. a ballot issue committee

may appoint poll observers to one or more of the six categories of observers permitted to observe various components of the election. Observers must be qualified to vote in the state but need not be registered in the county where they observe.

There are restrictions specific to the six appointment categories a poll observer occupies. Observers at an in-person absentee voting location are limited to one appointment per appointing group. In comparison, observers at precincts on Election Day are limited to one appointment per appointing group in each precinct who may observe from beginning to end. Observers at the Board of Elections office before the official canvass are permitted to observe the casting of provisional ballots after the close of registration, the casting and counting of ballots on Election Day, and the processing of absentee and provisional ballots. Official canvass observers may only be appointed by the county executive

committee of each political party or independent or nonpartisan candidate, or a committee representing or opposing a ballot issue. Still, recount observers may be the candidate in addition to one other person to freely observe the recount. Finally, post-election audit observers may be appointed by a political party, a group of candidates, or a ballot issue committee to observe the audit.

In addition to party-appointed poll watchers, [Ohio](#) permits poll watchers nominated by nonpartisan committees to observe the ballot tabulation process. For example, committees representing the proponents or opponents of a ballot initiative may appoint poll watchers to observe the ballot counting. Committees nominating a nonpartisan candidate as an official may also designate poll watchers. Under state [law](#), all poll watchers have equal access to areas where ballots are counted.

Observers may observe all proceedings in the election (including the casting, processing, counting, and recounting of ballots), but are not permitted to handle any election material directly. Observers must report concerns to the board of elections so as not to interfere with election officials administering the election.

Pennsylvania

In [Pennsylvania](#), each candidate for office is entitled to two poll watchers in each precinct in which that candidate is on the ballot. Political parties are entitled to three additional poll watchers in each precinct. Poll watchers must be registered to vote in the county in which they serve and can observe in only one precinct. As made clear in a 2020 [lawsuit](#), Board of Elections offices, where voters can request and submit ballots, do not constitute precincts. Therefore, election observers are not allowed in these areas.

Poll watchers can challenge the authenticity of any voter and request that the voter produce the proper documentation before casting their ballot. Nonpartisan election observers are not permitted in the state. Poll watchers from both parties are on boards responsible for conducting mail-in ballot verification. However, as of fall 2020, signature mismatch is [no longer a valid reason](#) to reject ballots in Pennsylvania, limiting the power of the poll watchers on those boards to challenge mail-in ballots. [Pennsylvania](#) allows any member of the public to watch the ballot tabulation process, including any party-appointed poll watchers.

Wisconsin

In [Wisconsin](#), any member of the public may act as an election observer, so long as they are not a candidate who appears on the ballot. Election observers must remain in a designated observation area between 3-8 feet from the voter check-in table and position themselves so they can easily observe all public aspects of the voting process. The chief inspector or municipal clerk may reasonably limit the number of persons representing the same organization who are permitted to observe simultaneously. Members of the public are allowed [to observe](#) all aspects of the election process, including counting mail-in ballots and signature [verification](#).

Conclusion

Election observers are key players in Election Day operations, though the laws that dictate their responsibilities differ from state to state. Typically, poll watchers can observe voters in the polling place, watch the ballot tabulation process, and oversee election audits. In many states, they also have the authority to report suspicious behavior or rule violations to election officials and challenge voters' registration status.

Appendix

See the resources published by the [U.S. Election Assistance Commission](#) (which includes links to resources from specific states) and the [National Conference of State Legislatures](#) for information on non-battleground states.