

## **Arizona Poll Workers: Rules and Constraints**

Arizona saw an [increasingly diverse](#) electorate turn out to vote at historic rates in 2020. As soon as returns started coming in on election night, however, activists began spreading false claims of rampant voter fraud, ranging from allegations that [Sharpie pens](#) resulted in miscounted ballots to claims that dead voters cast [hundreds](#) of ballots. The Republican-controlled Arizona Senate eventually hired a third party to conduct a partisan review of the election. While the [“audit”](#) found no evidence of widespread fraud, many voters and Republican leaders and candidates in the state [continue to cast doubt](#) on the integrity of Arizona’s elections, past and future.

Election experts now question how this widespread belief in unfounded fraud conspiracies will affect the upcoming Arizona general election. Many [fear](#) that the easiest way to “penetrate into the election process would be through . . . poll workers.” Recent [press reports](#) indicate that individuals who subscribe to falsehoods about election processes are already being recruited as poll workers in the state.

In Arizona, poll workers play a vital role in executing elections. For elections to function efficiently, it is critical that government officials recruit enough qualified individuals from all political parties to serve as poll workers. It is equally critical, however, that state and local officials take reasonable steps to ensure that poll workers are willing to follow the law and lawful instructions on Election Day.

Arizona, like other states, already has many guardrails in place to prevent those who seek to undermine elections from qualifying as poll workers and stop those individuals from disrupting election processes. Below is a list of existing legal and procedural safeguards to prevent poll worker disruptions, along with further actions election officials can take.

### **Legal Constraints on Poll Workers**

#### **Eligibility**

**All applicants, including political party nominees, must go through the appointment process.** Arizona utilizes four types of poll workers, detailed below, for each precinct: one inspector, one marshal, two judges, and as many clerks of election as it deems necessary — collectively referred to as the “election board.”<sup>1</sup> State law allows prospective poll workers to seek appointment in several ways, subject to the party representation requirements listed below. **Judges** may be nominated by the chair of a county’s political party at least 90 days before an election or appointed by the county’s board of supervisors if no nominations are submitted.<sup>2</sup> Whenever possible, the boards of supervisors should appoint **inspectors** who have had previous experience as an inspector, judge, marshal, or clerk of election.<sup>3</sup> If no qualified person exists in a given precinct, the board may appoint an inspector from names designated by the county party

chairperson.<sup>4</sup> Boards also appoint **marshals** and **clerks** of elections.<sup>5</sup> Each appointment method requires ultimate approval from a county's board of supervisors.<sup>6</sup>

**Poll workers must meet certain eligibility requirements under Arizona law.** Each county may develop its own poll worker application process, but all applicants, regardless of the county in which they reside, must be qualified voters of the precinct unless: (1) not enough poll workers meet this requirement or (2) the county utilizes vote centers — voting locations that any eligible voter in the county can visit on Election Day.<sup>7</sup> In both instances, being a qualified voter of the state suffices.<sup>8</sup> Poll workers also cannot be a candidate (nor the spouse, child, or parent of a candidate) in the election.<sup>9</sup> Students may serve as clerks if they are at least 16 years of age and, among other requirements, are supervised by a trained election officer.<sup>10</sup> With respect to inspectors in particular, any person appointed to the position should have previous experience as an inspector, judge, marshal, or clerk whenever possible.<sup>11</sup>

**Poll workers must be appointed to ensure bipartisan representation.** Arizona law provides specific party affiliation requirements to ensure bipartisan representation in the election workforce. For example, inspectors, marshals, and judges cannot have changed their political party or party preference affiliation since the last preceding general election and must be divided equally between the two major political parties.<sup>12</sup> Counties must have an equal number of inspectors in their precincts from each of the two political parties, and the marshal and inspector for a given precinct must be from opposing parties.<sup>13</sup> If unable to sufficiently appoint boards with members of different political parties, county election officials should exercise their best efforts to appoint members with no party affiliation or from different, unrecognized parties.<sup>14</sup> Boards should not otherwise turn away poll worker applicants solely on the basis of their viewpoints or beliefs so long as they are consistent with laws governing elections.<sup>15</sup>

**Poll workers must be willing to follow applicable laws and procedures.** Before opening the polls, Arizona law requires poll workers to “take an oath to faithfully perform the duties imposed on each member by law.”<sup>16</sup> Poll workers specifically “swear (or affirm) that [they] will support the Constitution of the United States and the Constitution and laws of the State of Arizona” and faithfully and impartially perform their duties.<sup>17</sup> Pursuant to this oath, boards may refuse to appoint applicants who demonstrate an unwillingness to follow applicable laws and instructions.

**Poll workers must attend a training.** Within 45 days before an election, state law requires county election officials to provide poll worker training for inspectors, judges, and any other election board members they deem necessary.<sup>18</sup> Among other topics, the training must cover applicable election laws and voting procedures.<sup>19</sup> Poll workers who successfully complete the training must receive a certificate of qualification and may not serve on Election Day without such a certificate.<sup>20</sup> Counties may also approve an alternate method of instruction and testing for “premium [election] board workers” — election workers who complete and pass additional training requirements such that they are not required to take any additional training classes for at least 30 months.<sup>21</sup>

## **Chain of Command**

**Poll workers must answer only to their respective local election officials.** At the county level, election administration is split between the county board of supervisors and the county recorder. Boards handle specific Election Day responsibilities, including managing polling places, deciding whether the county will use voting centers, and certifying election results.<sup>22</sup> Many county boards choose to delegate these responsibilities to an elections director.<sup>23</sup> Pursuant to state law, poll workers — including inspectors, marshals, judges, and clerks — are appointed and compensated by their respective county board of supervisors (and, in practice, the elections director), which can also remove poll workers for cause.<sup>24</sup> Recorders handle non-Election Day duties, including voter registration and early voting.<sup>25</sup> Poll workers may work under the authority of county recorders during early voting. Accordingly, poll workers must answer only to their board, elections director, or county recorder rather than to their political party or any party official.

**Each poll worker is tasked with specific duties to create a clear chain of command structure.** These duties include:

- **Inspector (1)** – The inspector acts as the chair of the election board for the polling location and, under the direction of county election officials, oversees all election-related activities at a voting location.<sup>26</sup> The position’s duties include leading and assigning duties to other poll workers, appointing a substitute judge, marshal, or clerk on Election Day (while maintaining party balance) in the event a poll worker does not show up or is removed, and ensuring that the polling place is functioning properly.<sup>27</sup> The inspector serves as a voting location’s single point of contact with county officials on Election Day and must raise all high-level decisions through county channels.<sup>28</sup>
- **Marshal (1)** – Marshals preserve order at the polls and prevent election law violations, including voter intimidation or impermissible electioneering.<sup>29</sup> To ensure that elections operate efficiently, marshals also measure the length of wait times and must notify the inspector if wait times have the potential to equal or exceed 30 minutes, as well as request additional voting machines, voting booths, and workers as appropriate.<sup>30</sup> In exceptional circumstances of violence or threats of violence, the marshal — independently or jointly with the inspector — may call law enforcement for the limited purpose of resolving the situation.<sup>31</sup> The marshal may also perform the duties of any other election board member on a relief basis.<sup>32</sup>
- **Judge (at least 2)** – Judges oversee the actual voting process, including issuing ballots, assisting voters with marking ballots and using voting equipment, and completing affidavits for provisional ballots.<sup>33</sup> Some counties expressly refer to judges as the “back up for the inspector” such that “they will aid in the same responsibilities as the inspector.”<sup>34</sup>
- **Clerk (as many as needed)** – Inspectors may assign clerks a variety of different duties at a polling place, including assisting voters with the check-in process, verifying identification and determining voter eligibility, and maintaining the signature roster or electronic pollbook.<sup>35</sup>

Counties also may assign specific duties and create additional roles within the chain of command structure as needed. For example, Maricopa County has created the role of “Voter Registration Clerk.”<sup>36</sup> Similarly, Pima County has created the roles of “Judge of the Same Party,” “Judge of Opposite Party,” and “Ballot Clerk.”<sup>37</sup>

### **Following Applicable Laws**

Poll workers must follow applicable local, state, and federal laws.<sup>38</sup> Poll workers who fail to follow these laws may violate their oath of office, warrant removal by the county board of supervisors or elections director, and face criminal liability.<sup>39</sup> These applicable laws include the following constraints:

**Poll workers may not intimidate or harass voters.** Federal and state laws prohibit actual or attempted intimidation, threats, or coercion against a voter with the purpose of interfering with the right to vote.<sup>40</sup> Violators — including poll workers — are subject to significant criminal liability.<sup>41</sup> Examples of prohibited intimidation may include, without limitation, raising one’s voice or taunting a voter; using threatening, insulting, or offensive language; or blocking the entrance to a voting location or otherwise disrupting voting lines.<sup>42</sup> Posting signs or communicating messages about penalties for “voter fraud” also may constitute intimidation if done in a “harassing or intimidating manner.”<sup>43</sup>

**Poll workers may not disrupt elections through disinformation.** The Arizona Secretary of State’s Office considers certain types of disinformation to constitute impermissible intimidation, including “[i]ntentionally disseminating false or misleading information at a voting location, such as flyers or communications that misstate the date of the election, hours of operation for voting locations, addresses for voting locations, or similar efforts intended to disenfranchise voters.”<sup>44</sup>

**Poll workers may not otherwise interfere with or attempt to influence voters.** In addition to prohibiting voter intimidation, state law prohibits certain activities inside the 75-foot limit of a polling place, including wearing clothing with a political message or “electioneering.”<sup>45</sup> In this context, “electioneering” refers to handing out campaign literature, talking to voters or poll workers about candidates or issues, or otherwise attempting to influence the election.<sup>46</sup> Relatedly, it is a misdemeanor offense for any poll worker to attempt to find out for whom an individual voted, open or examine a ballot before depositing it in the ballot box, or disclose an individual’s vote if discovered by fraudulent or illegal means.<sup>47</sup>

**Poll workers must adhere to challenge procedures and limitations.** Poll workers do not serve as challengers in Arizona. Rather, when qualified voters raise challenges, one inspector and two judges must rule on the challenge pursuant to certain procedures and limitations set out by statute.<sup>48</sup> For example, voters may only be challenged on several grounds: they voted before in that election, they are not the person whose name appears in the signature roster or e-pollbook, they do not meet the requisite residency requirements or registration requirements, or they are not a qualified elector.<sup>49</sup> Challenges based on race, national origin, appearance, surname language, or religion are not permitted.<sup>50</sup> A voter must be given a regular ballot if the voter appears to be registered and takes the requisite oath or if the majority of the inspector and two judges finds the challenge invalid.<sup>51</sup> If the challenged voter refuses to answer questions to the

challenge or if the challenge is determined to be valid, the challenged voter must still be permitted to vote a provisional ballot.<sup>52</sup>

**Poll workers may not tamper with ballots.** Under Arizona law, it is a felony offense to substitute, forge, counterfeit, or tamper with ballot tabulations or totals or destroy a polling list, ballot, or ballot box with the intent to “interrupt or invalidate the election.”<sup>53</sup> It is also a misdemeanor offense for any poll worker to knowingly attempt to find out for whom a person voted by, for example, opening a ballot or allowing a ballot to be opened.<sup>54</sup>

### **Available Enforcement Mechanisms**

Arizona election officials have broad authority to ensure that elections run smoothly and remain free from disruptions by rogue poll workers and observers. Available enforcement mechanisms include:

**Screening process.** As noted above, each county board has ultimate control over the poll worker appointment process.<sup>55</sup> Consistent with this authority, boards may develop clear screening plans to ensure that applicants submit complete applications and are willing to follow all applicable laws and procedures.

**Training content.** As noted above, state law requires all poll workers to complete training before the election.<sup>56</sup> At this training, officials should remind poll workers about relevant laws and rules, including their duty to answer only to the election officials and workers within their chain of command rather than any political party, party official, or other outside individual or entity. Similarly, officials should train poll workers to identify and report any violations of these procedures — whether by their fellow poll workers or other individuals. These training sessions provide an opportunity for county election officials to clearly explain the checks in place to prevent voter fraud or manipulation of the election process and provide context to correct common rumors and misperceptions.

**Assigning poll workers.** Given the inspector’s authority over all election-related activities at voting locations, state law requires each county board to appoint an inspector with previous election experience whenever possible.<sup>57</sup> If they do not already, local officials can aim to track where first-time poll workers (at all levels) are placed, distribute first-time poll workers evenly across the jurisdiction, and ensure that every precinct has at least one poll worker with previous experience.

**Removal.** As detailed above, in the event that a poll worker refuses to comply with their duties or follow applicable laws, or otherwise disrupts the election process, that poll worker should be immediately removed.<sup>58</sup> In case a disruption occurs, counties should also prepare a set removal plan and procedure. This plan could include: (1) a written list of common grounds for removal; (2) properly documenting the cause of the removal and all parties involved; and (3) maintaining, if possible, a list of back up poll workers to cover staffing shortages.

**Oath of office.** The oath of office provides a strong legal basis for preventing and addressing abuses by poll workers.<sup>59</sup>

<sup>1</sup> Ariz. Rev. Stat. § 16-531(A); *see also* ARIZ. SEC’Y OF STATE’S OFF., 2019 ARIZONA ELECTIONS PROCEDURES MANUAL (hereinafter “AEPM”), 133 n.37, [https://azsos.gov/sites/default/files/2019\\_ELECTIONS\\_PROCEDURES\\_MANUAL\\_APPROVED.pdf](https://azsos.gov/sites/default/files/2019_ELECTIONS_PROCEDURES_MANUAL_APPROVED.pdf) (last visited Sept. 22, 2022). Polling places with less than 300 qualified electors require only one inspector and two judges.

<sup>2</sup> Ariz. Rev. Stat. § 16-531(A); AEPM, *supra* note 1, at 133.

<sup>3</sup> Ariz. Rev. Stat. § 16-531(A). *See also* AEPM, *supra* note 1, at 133.

<sup>4</sup> *Id.*

<sup>5</sup> Ariz. Rev. Stat. § 16-531(A).

<sup>6</sup> *Id.*

<sup>7</sup> *See* ARIZ. SEC’Y OF STATE’S OFF., 2022 COUNTY POLL WORKER INFORMATION, <https://azsos.gov/elections/pollworker2022> (last visited Sept. 23, 2022); Ariz. Rev. Stat. § 16-531(A). Poll workers need only be a registered voter of the state if working at a vote center that serves several precincts on Election Day. *See, e.g.*, ALL ABOUT VOTE CENTERS (2022), <https://webcms.pima.gov/cms/One.aspx?portalId=169&pageId=844938>.

<sup>8</sup> Ariz. Rev. Stat. § 16-531(A); 16-411(b)(4). *See also, e.g.*, ALL ABOUT VOTE CENTERS, *supra* note 7.

<sup>9</sup> *See* Ariz. Rev. Stat. §§ 16-531(A), (D); AEPM, *supra* note 1, at 132-39. If there are not enough poll workers who meet the residential requirement, qualified voters from the state as a whole will suffice. Further, the precinct committeeman or a candidate for that office may still be qualified to be a poll worker. *See* Ariz. Rev. Stat. § 16-531(D).

<sup>10</sup> Ariz. Rev. Stat. § 16-531(F).

<sup>11</sup> Ariz. Rev. Stat. § 16-531(A).

<sup>12</sup> *Id.*; *see also* AEPM, *supra* note 1, at 132-39.

<sup>13</sup> Ariz. Rev. Stat. § 16-531(A).

<sup>14</sup> AEPM, *supra* note 1, at 134 n.38.

<sup>15</sup> *See generally* U.S. CONST. amend. I.

<sup>16</sup> Ariz. Rev. Stat. § 16-534(C).

<sup>17</sup> Ariz. Rev. Stat. § 38-231.

<sup>18</sup> Ariz. Rev. Stat. § 16-532(A); *see also* AEPM, *supra* note 1, at 136-38.

<sup>19</sup> Ariz. Rev. Stat. § 16-532(A).

<sup>20</sup> *Id.* An exception exists for inspectors and judges appointed to fill a vacancy as provided in Ariz. Rev. Stat. §§ 16-533, 16-534.

<sup>21</sup> Ariz. Rev. Stat. § 16-532(D). *See also, e.g.*, MARICOPA CTY. ELECTIONS DEP’T, 2022 ELECTIONS PLAN 35, <https://recorder.maricopa.gov/site/pdf/FINAL%20-%202022%20Elections%20Plan.pdf> (last visited Sept. 22, 2022).

<sup>22</sup> *See, e.g.*, AEPM, *supra* note 1, at 238.

<sup>23</sup> *See, e.g.*, ARIZ. SEC’Y OF STATE’S OFF., COUNTY ELECTION OFFICIALS CONTACT INFORMATION, <https://azsos.gov/county-election-info> (last visited Sept. 22, 2022).

<sup>24</sup> Ariz. Rev. Stat. §§ 16-531(A), (I); *see also id.* § 16-536.

<sup>25</sup> Ariz. Rev. Stat. § 16-411(B)(4).

<sup>26</sup> AEPM, *supra* note 1, at 135.

<sup>27</sup> *Id.*; Ariz. Rev. Stat. § 16-534.

<sup>28</sup> Ariz. Rev. Stat. § 16-534; *see also* AEPM, *supra* note 1, at 134-35.

<sup>29</sup> Ariz. Rev. Stat. § 16-535(B); AEPM, *supra* note 1, at 135.

<sup>30</sup> Ariz. Rev. Stat. § 16-535(B).

<sup>31</sup> *See* ARIZ. SEC’Y OF STATE’S OFF., GUIDANCE ON POLLING PLACE CONDUCT AND PREVENTING VOTER INTIMIDATION (hereinafter “2020 Secretary of State Guidance”) 2-3 (2020), <https://www.documentcloud.org/documents/7232360-Voter-Intimidation-Prevention-Guide.html?embed=true&responsive=false&sidebar=false>.

<sup>32</sup> Ariz. Rev. Stat. § 16-535; *see also* AEPM, *supra* note 1, at 135.

<sup>33</sup> *See* AEPM, *supra* note 1, at 135-36 (citing Ariz. Rev. Stat. §§ 16-579(C), 16-467(B), 16-572(B)).

<sup>34</sup> *See, e.g.*, MARICOPA CTY. ELECTIONS DEP’T, 2022 TRAINING MANUAL: POLL WORKERS 16 (2022) (hereinafter “2022 Maricopa County Training Manual”), [https://elections.maricopa.gov/asset/jcr:2f02b340-4bc1-4782-8fa1-9813afabb37a/FINAL%202022%20Primary%20General%20Manual\\_Redacted1.pdf](https://elections.maricopa.gov/asset/jcr:2f02b340-4bc1-4782-8fa1-9813afabb37a/FINAL%202022%20Primary%20General%20Manual_Redacted1.pdf).

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- <sup>35</sup> See, e.g., *id.*; PINAL CTY. ARIZ. ELECTIONS DEP'T, ELECTION BOARD WORKER JOB DESCRIPTION, <https://www.pinalcountyaz.gov/elections/Documents/Poll%20Worker%20Resources/election-worker-job-description-clerk.pdf> (last visited Sept. 22, 2022).
- <sup>36</sup> See 2022 Maricopa County Training Manual, *supra* note 34.
- <sup>37</sup> PIMA CTY. INSPECTOR, EQUIPMENT SPECIALTY & MARSHALL HANDBOOK 34-35 (2022), [https://webcms.pima.gov/UserFiles/Servers/Server\\_6/File/Government/elections/pdfs/Poll%20Workers/Inspector%20marshal%20and%20special%20equipmentHandbook%20Primary.pdf](https://webcms.pima.gov/UserFiles/Servers/Server_6/File/Government/elections/pdfs/Poll%20Workers/Inspector%20marshal%20and%20special%20equipmentHandbook%20Primary.pdf); PIMA CTY. JUDGES & CLERKS HANDBOOK 22 (2022), [https://webcms.pima.gov/UserFiles/Servers/Server\\_6/File/Government/elections/pdfs/Poll%20Workers/2022%20Judges%20and%20Clerks%20Handbook%20Primary.pdf](https://webcms.pima.gov/UserFiles/Servers/Server_6/File/Government/elections/pdfs/Poll%20Workers/2022%20Judges%20and%20Clerks%20Handbook%20Primary.pdf).
- <sup>38</sup> Ariz. Rev. Stat. §§ 16-1009, 16-1010, 38-231.
- <sup>39</sup> Ariz. Rev. Stat. §§ 16-1009, 16-1010, 38-231, 16-531(I), 16-534(C).
- <sup>40</sup> 52 U.S.C. § 10101(b); 52 U.S.C. § 10307(b); 42 U.S.C. § 1985(3); 18 U.S.C. § 594; Ariz. Rev. Stat. §§ 16-1006, 16-1008, 16-1013; 13-1202; *see also generally* 2020 Secretary of State Guidance, *supra* note 31.
- <sup>41</sup> *Id.*
- <sup>42</sup> See 2020 Secretary of State Guidance, *supra* note 31, at 4; AEPM, *supra* note 1, at 180-81.
- <sup>43</sup> AEPM, *supra* note 1, at 180-81.
- <sup>44</sup> *Id.*
- <sup>45</sup> Ariz. Rev. Stat. § 16-515(F). If the voting location has an “emergency” designation, electioneering is prohibited anywhere on site, even outside the 75-foot limit. *Id.* § 16-411(H).
- <sup>46</sup> Ariz. Rev. Stat. §§ 16-515(I), 16-1018.
- <sup>47</sup> Ariz. Rev. Stat. § 16-1007.
- <sup>48</sup> Ariz. Rev. Stat. § 16-590.
- <sup>49</sup> Ariz. Rev. Stat. §§ 16-590, 16-591, 16-592, 16-593; *see also* AEPM, *supra* note 1, at 189-91.
- <sup>50</sup> See, e.g., 2020 Secretary of State Guidance, *supra* note 31, at 3.
- <sup>51</sup> *Id.*; Ariz. Rev. Stat. § 16-592.
- <sup>52</sup> Ariz. Rev. Stat. §§ 16-59(B)-(C).
- <sup>53</sup> Ariz. Rev. Stat. § 16-1016.
- <sup>54</sup> Ariz. Rev. Stat. § 16-1007.
- <sup>55</sup> Ariz. Rev. Stat. § 16-531.
- <sup>56</sup> Ariz. Rev. Stat. § 16-532(A); *see also* AEPM, *supra* note 1, at 136-38.
- <sup>57</sup> See Ariz. Rev. Stat. § 16-531(A).
- <sup>58</sup> Ariz. Rev. Stat. § 16-531(I).
- <sup>59</sup> See Ariz. Rev. Stat. § 38-231.