

Pennsylvania Poll Watchers: Rules and Constraints

By: Andrew Garber. Written and Published in Partnership with All Voting is Local.

Poll watchers are individuals who monitor polling places and ballot counting sites. While poll watchers play an important role in providing transparency, they can also be a potential source of disruption and intimidation. For this reason, all states have a series of regulations and constraints regarding who can serve as poll watchers and what they can do. Pennsylvania's, which derive both from the commonwealth's election code and from guidance issued by the secretary of the commonwealth, are:

Appointment

- Candidates on the ballot may appoint up to two poll watchers to each polling place, and political parties with a candidate on the ballot may appoint up to three poll watchers to each polling place.¹ However, only one poll watcher may be present in the polling place at one time for each candidate and political party.²
- Pennsylvania law requires each poll watcher to be a registered voter of the county where the watcher serves.³
- All watchers must obtain a certificate from the county board of elections stating their name and the name of the candidate or political party they represent.⁴ Watchers are required by law to show their certificates to the local board of elections upon request.⁵
- Parties and candidates may also designate “authorized representatives” to observe the pre-canvass and canvass of mail-in and absentee ballots.⁶

Role of Poll Watchers

- Watchers monitor the election from outside the enclosed space of the polling place.⁷
- Watchers may remain in the polling place after polls close but cannot enter the enclosed space where ballots are being counted.⁸
- Watchers can keep a list of voters and, when no voters are present in the polling place, may inspect but not touch the official voter list under supervision of a poll worker.⁹

¹ 25 P.S. § 2687(a); and Pennsylvania Secretary of State's Office, *2022 Guidance Concerning Poll Watchers and Authorized Representatives* (hereinafter *Guidance*), October 5, 2022, <https://www.dos.pa.gov/VotingElections/OtherServicesEvents/Documents/2022-10-05-Guidance-Concerning-Poll-Watchers-Authorized-Representatives-2.1.pdf>.

² 25 P.S. § 2687(b). See also *Guidance*.

³ 25 P.S. § 2687(b). See also *Guidance*.

⁴ 25 P.S. § 2687(b). See also *Guidance*.

⁵ 25 P.S. § 2687(b). See also *Guidance*.

⁶ 25 P.S. § 3146.8(g)(2). See also *Guidance*.

⁷ 25 P.S. § 2687(b). See also *Guidance*.

⁸ 25 P.S. § 2687(b). See also *Guidance*.

⁹ 25 P.S. § 2687(b). See also *Guidance*.

- Watchers can make good faith challenges to a voter’s identity or continued residence in the election district but only if the challenge is based on actual evidence.¹⁰ These challenges must be made directly with the judge of elections.¹¹
- Challenges to a voter’s qualifications for reasons such as the voter’s race, religion, language, appearance, national origin, or name are not permitted; such challenges violate state law and federal antidiscrimination laws.¹²
- Authorized representatives may observe the opening of ballot envelopes and the counting and recording of absentee and mail-in ballots. They may not challenge ballots during the pre-canvass or canvass, although they may make good faith challenges to an absentee or mail-in ballot before 5 p.m. on the Friday prior to an election if the challenge is based on actual evidence. They may not challenge a ballot based on a signature analysis.¹³

Prohibited Activities

To prevent poll watchers from disrupting elections, Pennsylvania law prohibits the following activities:

- **Electioneering:** It is illegal for poll watchers to conduct campaign-related activities, also known as electioneering, while inside the polling place or within 10 feet of the entrance to the polling place.¹⁴ The secretary of the commonwealth advises that electioneering includes soliciting votes, posting or displaying written or printed campaign materials, and handing out pamphlets or other campaign paraphernalia.¹⁵
- **Intimidation or Influence:** No person may threaten, harass, or intimidate voters.¹⁶ Examples of voter intimidation provided by the secretary of the commonwealth include photographing or videotaping voters, directly speaking to or questioning voters, blocking the entrance to a polling place, and disseminating false or misleading election information to voters.¹⁷
- **Marking Election Records:** While watchers may sometimes view official election records, they may never mark or alter them.¹⁸
- **Interference:** No person, including poll watchers, may interfere with or impinge on the orderly process of voting or obstruct election workers performing their duties.¹⁹
- **Entering the Enclosed Space:** The area that election workers mark off for voting and ballot counting is off-limits to watchers.²⁰

The secretary of the commonwealth’s guidance further prohibits poll watchers from:

¹⁰ 25 P.S. § 2687(b). See also *Guidance*; and 25 § P.S. 3050(d).

¹¹ *Guidance*.

¹² *Guidance*.

¹³ *Guidance*.

¹⁴ 25 P.S. § 3060(c)-(d). See also *Guidance*.

¹⁵ *Guidance*.

¹⁶ 25 P.S. §§ 3508, 3519, 3527, 3547.

¹⁷ *Guidance*.

¹⁸ 25 P.S. § 2687(b). See also *Guidance*.

¹⁹ 25 P.S. § 3527.

²⁰ 25 P.S. § 2687(b).

- **Interacting with Voters:** Poll watchers are not permitted to approach voters in the polling place.²¹

Authorized representatives at absentee and mail-in ballot canvasses are subject to the same prohibitions. They also may not disclose any portion of the results before the close of polls on Election Day.²²

Federal and state law strictly prohibit all people, including observers, from engaging in voter intimidation. Any action that makes a voter feel intimidated, threatened, or coerced (including any effort to prevent a voter from registering to vote, voting, or voting for or against any candidate or ballot measure) could constitute voter intimidation, regardless of whether it breaks a specific rule.²³

Removal

- The secretary of the commonwealth has expressly advised that the judge of elections, as part of the judge's duties to maintain order at the polling place, is obligated to remove poll watchers who engage in prohibited activities, including those listed in the section above.²⁴ The authority to remove disruptive individuals is broad.²⁵
- Any poll watcher who engages in prohibited activities may also face criminal charges.²⁶
- Poll workers may contact law enforcement for assistance in removing disruptive people, including poll watchers, from the polls but should use sound judgment in deciding whether doing so is necessary.²⁷

²¹ *Guidance.*

²² 25 P.S. § 3146.8(g)(1.1). See also *Guidance.*

²³ 18 U.S.C. §§ 241, 594; and 52 U.S.C. § 10101(b).

²⁴ *Guidance.*

²⁵ *Guidance.*

²⁶ See, e.g., 25 P.S. §§ 3508, 3519, 3527, 3547. See also 52 U.S.C. § 10307(b).

²⁷ 25 P.S. § 3047; and *Guidance.*