

## **Pennsylvania Election Officers: Rules and Constraints**

Election officers (Pennsylvania’s legal term for poll workers) play an important role in administering elections. Their duties range from checking in voters, assisting in operating voting machines, and ensuring that election returns are delivered to the county election office. Like other states across the country, Pennsylvania has worked tirelessly to [recruit](#) election officers despite shortages. For elections to function well, it is critical that Pennsylvania maintain enough qualified individuals to serve as election officers. It is equally critical that these election officers perform their duties impartially and follow the law on Election Day.

Recent media [reports](#) indicate that individuals who subscribe to falsehoods about election processes are being recruited as poll workers in several battleground states, including Pennsylvania. While no one should be prevented from working as an election officer solely because of their political viewpoints or beliefs, government officials can take reasonable steps to ensure that prospective election officers are willing to and do, in fact, set aside any personal and partisan beliefs, follow the law, and faithfully carry out the duties of their position.

Fortunately, Pennsylvania, like other states, already has many guardrails in place to prevent those who seek to undermine elections from working as election officers. These guardrails are detailed below, along with additional actions that officials can take to prevent disruptions on Election Day.

### **Legal Constraints on Election Officers**

#### **Eligibility**

#### **Prospective election officers must proceed through the election or appointment process.**

- In Pennsylvania, several types of election officers make up each precinct’s “election board”: the **judge of elections**, **majority inspector**, and **minority inspector**.<sup>1</sup> Election board positions are filled during municipal elections every four years.<sup>2</sup> These elections last took place in 2021 and will occur again in 2025.<sup>3</sup> The inspector candidate who receives the highest number of votes becomes the majority inspector, and the candidate who receives the second-highest number of votes becomes the minority inspector.<sup>4</sup> Each county’s board of elections appoints — typically through designated county election directors — individuals to fill vacancies that occur within five days before an election.<sup>5</sup> In practice, most vacancies are filled through this process. A county court appointment process exists for those vacancies that occur more than five days before an election.<sup>6</sup>

- In addition to the election board, Pennsylvania utilizes two additional types of election officers: **clerks** and **machine inspectors**, who support the election board.<sup>7</sup> Each election board's minority inspector appoints one clerk, and the county board of elections appoints machine inspectors.<sup>8</sup> Counties vary in how they appoint individuals to fill clerk and machine inspector vacancies.<sup>9</sup>

**Election officers must meet certain eligibility requirements under Pennsylvania law.**

Pennsylvania law requires that all election officers be qualified, registered voters of the district (the election district or precinct of a municipality), in which they are elected or appointed.<sup>10</sup> Individuals who appear on the ballot and federal, state, and local government officials and employees cannot serve as poll workers (subject to exceptions for district judges, notaries public, and members of the Pennsylvania National Guard).<sup>11</sup> County boards of elections may choose to appoint up to two student election officers per precinct to serve as clerks or machine inspectors provided they are at least 17 years old and obtain approval from both their parent or guardian and school.<sup>12</sup>

**Election officers must complete training requirements.** Pennsylvania counties provide varying forms of mandatory training courses that cover election officers' duties prior to Election Day.<sup>13</sup> Pennsylvania law further provides that the county board of elections must specifically instruct all judges of elections, majority and minority inspectors, and machine inspectors in the use of voting machines and their duties in connection with the machines.<sup>14</sup> These officers must complete the voting machine training, be found qualified by the county board to perform their duties in connection with voting machines, and receive a training completion certificate from their county board of elections.<sup>15</sup>

**Election officers must be willing to follow applicable laws and procedures.** Before working an election, all election officers must take an oath to perform their duties truly and faithfully.<sup>16</sup> Accordingly, election officers may be disqualified if they refuse to sign the oath or demonstrate an unwillingness to comply.<sup>17</sup> Further, election officers who work at an election without taking the oath and/or violate the oath may face misdemeanor charges.<sup>18</sup>

**Chain of Command**

**Election officers must answer only to state and county officials.** Under Pennsylvania law, county boards of elections pay and train all election officers.<sup>19</sup> Non-elected election officers (i.e., clerks and machine inspectors) may be removed from their positions at the discretion of the county officials who appointed them.<sup>20</sup> As civil officers elected by the people, judges of elections and majority and minority inspectors may forfeit their positions in one of two ways: (1) removal by the Governor for reasonable cause or (2) a county court order disqualifying the individual as an election officer if the court finds that the individual does not possess the qualifications as required by law.<sup>21</sup> Further, all election officials may be removed from the polling location if they disturb the polls on Election Day.<sup>22</sup> Accordingly, election officers must answer only to these county and state authorities rather than to their political party or any party official.

**Each election officer is tasked with specific duties to create a clear chain of command structure.** Subject to federal, state, and local laws, detailed below, the judge of elections (one per precinct) maintains ultimate responsibility for the conduct of the polling place and the people working there.<sup>23</sup> Under the supervision of the judge of elections, the majority and minority inspectors (one each per precinct) work together to manage the polling place, keep track of the voters, and ensure that returns are delivered to the county election office at the end of Election Day.<sup>24</sup> The clerk and machine inspectors support and work under the election board.<sup>25</sup> The clerk (one per precinct) helps check in and direct voters, and machine inspectors (multiple per precinct) assist in operating voting machines.<sup>26</sup> Counties may provide additional guidance as to how election officers divide up tasks within this chain of command structure.<sup>27</sup> In addition to election officers, each county's constable (an elected peace officer) is charged by Pennsylvania statute with maintaining order at polling locations and ensuring that no qualified voter is obstructed from voting.<sup>28</sup> Constables must answer to the governor.<sup>29</sup>

### **Following Applicable Laws**

Election officers are further constrained by their duty to follow applicable local, Pennsylvania, and federal laws. Failure to do so may violate their oath of office, warrant removal or disqualification, and may subject them to criminal liability.<sup>30</sup>

**Election officers may not intimidate or harass voters.** Federal and Pennsylvania law broadly prohibits actual or attempted intimidation, threats, or coercion against a voter for the purpose of interfering with the right to vote.<sup>31</sup> Violators are subject to significant civil and criminal liability.<sup>32</sup> Pennsylvania law further prohibits the use of any "abduction, duress or coercion, or any forcible or fraudulent device or contrivance" that interferes with the right to vote.<sup>33</sup> Examples of prohibited intimidation in Pennsylvania include, but are not limited to, aggressive or threatening behavior inside or outside of the polling place; disseminating false or misleading election information, including information on voting eligibility, polling place procedures, polling place hours, or voting methods; photographing or videotaping voters to intimidate them; and routine and frivolous challenges to a voter's eligibility.<sup>34</sup> Relatedly, it is a misdemeanor offense to unlawfully strike, wound, or commit an assault or battery against any voter near a polling place during an election.<sup>35</sup>

**Election officers may not disrupt elections through disinformation or otherwise attempt to influence voters.** Pursuant to their oaths of office, Pennsylvania election officers pledge, in relevant part, to prevent "deceit" and perform their duties "impartially," "truly," and "faithfully."<sup>36</sup> As detailed above, disseminating false or misleading information on voting processes may violate Pennsylvania's voter intimidation provisions.<sup>37</sup> Election officers also may not prevent another election officer from performing their election duties under Pennsylvania law, nor may they "willfully hinder the voting of others."<sup>38</sup> Accordingly, spreading false information about who can vote, how and when they can vote, and other aspects of voter eligibility and the voting process such that it disrupts election processes and interferes with voting may violate Pennsylvania law and subject the election officer to removal.

**Election officers may not prevent eligible voters from casting a ballot.** According to guidance from the Pennsylvania Department of State, an individual is presumed to be a "*bona fide*"

qualified voter and must be allowed to vote if their name appears in the poll book.<sup>39</sup> Consistent with this guidance, Pennsylvania law permits election officers to challenge voters only under limited circumstances and with clear constraints. A challenge brought by an election officer can be made only on two grounds: identity and residency.<sup>40</sup> Routine or frivolous challenges are prohibited and, as detailed above, may constitute impermissible voter intimidation.<sup>41</sup> As set forth by the department of state, after a challenge is brought, the judge of elections must determine whether a challenge rests on a good faith basis.<sup>42</sup> If the judge of elections determines that the challenge is satisfied as to the voter's eligibility, the voter must be permitted to vote normally.<sup>43</sup> If the judge cannot determine in good faith the voter's residency or identity, the voter must: (1) be permitted to bring another voter from the precinct to sign an affidavit vouching for the challenged voter, and then be given a normal ballot or (2) be given a provisional ballot.<sup>44</sup> Knowingly refusing a qualified, registered voter is a felony offense.<sup>45</sup>

**Election officers may not tamper or otherwise interfere with voting equipment or materials.** Pennsylvania law prohibits election officers from, among other acts: (1) willfully destroying or defacing any ballot or willfully delaying the delivery of any ballots; (2) unlawfully opening or tampering with any voting machine; (3) depositing fraudulent ballots into the ballot box; (4) knowingly certifying as correct a fraudulent return of ballots; (5) unfolding, opening, or prying into any ballot before it is deposited into the ballot box; and (6) improperly removing any ballot from any book of official ballots.<sup>46</sup>

### **Available Enforcement Mechanisms**

Pennsylvania election officials have broad authority to ensure that elections run smoothly and remain free from disruptions on Election Day. Available enforcement mechanisms include:

**Screening process.** As noted above, county boards of elections and courts (depending on when vacancies occur) have broad authority to appoint judges and majority and minority inspectors in the event of vacancies.<sup>47</sup> Minority election inspectors similarly have broad authority to appoint clerks, as do county boards of elections with respect to machine inspectors.<sup>48</sup> Consistent with this authority, and subject to time constraints, county boards of elections may choose to develop clear election officer screening plans (when they appoint election officers) and/or guidelines (when others appoint election officers) to ensure that applicants for vacancies understand their roles and positions within the election official chain of command and are willing to follow all applicable laws and procedures.

**Training content.** As noted above, Pennsylvania counties provide comprehensive training programs to all election officers before they work an election, and state law further requires that county boards of elections instruct election boards and machine inspectors on how to use voting machines.<sup>49</sup> At these trainings, county officials should remind election officers about relevant laws and rules, including their duty to answer to their county and state officials rather than their political parties, any party official, or any other outside individual or entity. These training sessions provide a helpful opportunity for clerks 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 election officers.** Given the judge of elections and inspectors' roles in overseeing and managing the polling place, county officials should — to the extent possible — aim to appoint individuals with substantial previous election officer experience and demonstrated knowledge of voting procedures when filling vacancies. In fact, Pennsylvania law already provides that when vacancies occur within five days of an election, the county board of elections may appoint election board replacements from a “pool” of qualified individuals who already have been trained by the county.<sup>50</sup> Minority inspectors and county boards of elections should similarly choose to appoint experienced clerks and machine inspectors whenever possible.

**Removal procedures.** In the event that a non-elected election officer neglects or refuses to comply with their duties, declines to follow applicable laws, or otherwise disrupts the election process, that election official can and should be immediately removed.<sup>51</sup> Elected judges and inspectors who neglect or refuse to comply with their duties should similarly be immediately removed from the polling place and removed from their positions under the constitutionally designated process for elected civil officers, detailed above.<sup>52</sup> To ensure that counties maintain an adequate number of election officers in the event of removal or other vacancies, county boards of elections may choose to maintain a pool of backup election officers, if possible, to cover staffing shortages, as described above.

**Oath of Office.** The oaths of office for each type of election officer provide a strong legal basis for preventing and addressing abuses by election officers.<sup>53</sup>

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<sup>1</sup> 25 P.S. §§ 2641(a), 2602(g.1), 2671.

<sup>2</sup> 25 P.S. § 2671.

<sup>3</sup> *Id.*; Pennsylvania Department of State, “Become a Poll Worker,” last accessed September 26, 2022, <https://www.votespa.com/resources/pages/be-a-poll-worker.aspx>.

<sup>4</sup> 25 P.S. § 2671.

<sup>5</sup> 25 P.S. § 2675(c). These appointees serve only on Election Day rather than the rest of the four-year term. *Id.*; see also Pennsylvania Department of State, “Contact your Election Officials,” last accessed September 26, 2022, <https://www.vote.pa.gov/Resources/Pages/Contact-Your-Election-Officials.aspx> (providing contact information for election directors).

<sup>6</sup> 25 P.S. § 2675. When appointing replacements through the court process, the majority and minority inspectors must be of different political parties, and the judge of elections must represent the party that won the majority of votes in that district at the last preceding November election. *Id.* Individuals appointed through this process serve the remainder of the four-year term. *Id.*

<sup>7</sup> 25 P.S. §§ 2602(g.1), 2671.

<sup>8</sup> 25 P.S. § 2674.

<sup>9</sup> See, e.g., Delaware County, “Becoming a Poll Worker,” last accessed September 26, 2022, <https://delcopa.gov/vote/becomingapollworker.html>.

<sup>10</sup> 25 P.S. §§ 2602(g), 2672(a).

<sup>11</sup> 25 P.S. § 2672(a).

<sup>12</sup> 25 P.S. § 2672(b).

<sup>13</sup> See, e.g., Allegheny County, “Poll Workers,” last accessed September 26, 2022, <https://www.alleghenycounty.us/elections/poll-workers.aspx>; Delaware County Pennsylvania, “Poll Worker Training,” last accessed September 26, 2022, <https://www.delcopa.gov/vote/pollworkertraining.html>.

<sup>14</sup> 25 P.S. § 2684.

<sup>15</sup> 25 P.S. § 2684. Exceptions exist for filling vacancies on Election Day and the day before Election Day. *Id.*

<sup>16</sup> 25 P.S. §§ 2676 - 2680.

<sup>17</sup> See *In re Removal of Minority Dist. Election Inspector*, 1 Pa. D. & C.2d 783, 784-85 (1955) (explaining that a county court maintains “the right to declare that an individual may be disqualified as an election officer if he does not possess the qualifications required by the Constitution or the laws, and then declare the existence of a vacancy in the office.”).

<sup>18</sup> 25 P.S. §§ 3509 - 3510.

<sup>19</sup> 25 P.S. §§ 2682.2, 2684.

<sup>20</sup> 25 P.S. § 2674; PA. Const. art. VI, § 7.

<sup>21</sup> See *In re Removal of Minority Dist. Election Inspector*, *supra* note 17 at 784-85; see also 25 P.S. § 2675.

<sup>22</sup> See, e.g., 25 P.S. § 3521.

<sup>23</sup> Pennsylvania Department of State, “Become a Poll Worker,” *supra* note 3.

<sup>24</sup> *Id.*

<sup>25</sup> 25 P.S. § 2671.

<sup>26</sup> Pennsylvania Department of State, “Become a Poll Worker,” *supra* note 3; 25 P.S. § 2674.

<sup>27</sup> See, e.g., Pennsylvania Department of State, “Become a Poll Worker,” *supra* note 3; Montgomery County, “Poll Workers,” last accessed September 26, 2022, <https://www.montcopa.org/759/PollWorkers>.

<sup>28</sup> 44 PA Cons Stat § 7152; “Pennsylvania State Constable,” last accessed September 26, 2022, <https://constablepa.us/>.

<sup>29</sup> *Id.*

<sup>30</sup> See, e.g., 25 P.S. §§ 2675, 2677-80, 3510, 3548; PA. Const. art. VI.

<sup>31</sup> 52 U.S.C. § 10101(b); 52 U.S.C. § 10307(b); 42 U.S.C. § 1985(3); 18 U.S.C. § 594; 25 P.S. § 3547; Pennsylvania Department of State, “Guidance on Voter Intimidation and Discriminatory Conduct,” last accessed September 26, 2022, <https://www.vote.pa.gov/Your-Rights/Pages/Voter-Intimidation.aspx>.

<sup>32</sup> *Id.*

<sup>33</sup> 25 P.S. § 3547.

<sup>34</sup> Pennsylvania Department of State, “Guidance on Voter Intimidation and Discriminatory Conduct,” *supra* note 31.

<sup>35</sup> 25 P.S. § 3529.

<sup>36</sup> 25 P.S. §§ 2677 – 2680 (each oath contains slight variations in wording).

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<sup>37</sup> Pennsylvania Department of State, “Guidance on Voter Intimidation and Discriminatory Conduct,” *supra* note 31.

<sup>38</sup> 25 P.S. §§ 3508, 3519.

<sup>39</sup> Pennsylvania Department of State, “Guidance on Rules in Effect at the Polling Place on Election Day,” October 2016,

<https://www.dos.pa.gov/VotingElections/OtherServicesEvents/Documents/DOS%20GUIDANCE%20ON%20RULES%20IN%20EFFECT%20AT%20THE%20POLLING%20PLACE%20ON%20ELECTION%20DAY%2010-16.pdf>.

<sup>40</sup> 25 P.S. § 3050(d). Election officers must reject, rather than challenge, voters who engage in voting-related bribery at the election or commit a known or proven violation of Pennsylvania’s election laws. 25 P.S. § 3051.

<sup>41</sup> Pennsylvania Department of State, “Guidance on Rules in Effect at the Polling Place on Election Day,” *supra* note 39, at 5; Pennsylvania Department of State, “Guidance on Voter Intimidation and Discriminatory Conduct,” *supra* note 31.

<sup>42</sup> Pennsylvania Department of State, “Guidance on Rules in Effect at the Polling Place on Election Day,” *supra* note 39, at 5.

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> 25 P.S. § 3523.

<sup>46</sup> 25 P.S. §§ 3517, 3518, 3525, 3526, 3536.

<sup>47</sup> 25 P.S. § 2675.

<sup>48</sup> 25 P.S. § 2674.

<sup>49</sup> 25 P.S. § 2684.

<sup>50</sup> 25 P.S. § 2675(c).

<sup>51</sup> 25 P.S. § 3548; PA. Const. art. VI, § 7.

<sup>52</sup> *Id.*

<sup>53</sup> 25 P.S. §§ 3509 - 3510.