

TLP: WHITE



**GUIDANCE CONCERNING POLL WATCHERS AND
AUTHORIZED REPRESENTATIVES**

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GUIDANCE CONCERNING POLL WATCHERS AND AUTHORIZED REPRESENTATIVES

1 BACKGROUND

This guidance addresses the role of poll watchers at polling places, and the role of authorized representatives at the pre-canvass and canvass of ballots.

2 POLL WATCHER QUALIFICATIONS

To be a poll watcher, a person must be a qualified registered elector of the county in which the election district for which the watcher is to be appointed is located. Poll watchers must be identified and must receive official county credentials in advance, and must be assigned to specific precincts. When a poll watcher is not serving in the election district for which the poll watcher was appointed, he or she may serve in any other election district in the same county in which the poll watcher is a qualified registered elector.

Each poll watcher must be provided with a certificate from the County Board of Elections, which states the poll watcher's name and the name of the candidate, party, or political body he or she represents. Poll watchers are required to show their certificates when requested to do so. If a poll watcher loses his or her certificate or if the certificate is destroyed, the poll watcher may appear before the Court of Common Pleas on election day and after swearing an oath or affirmation may immediately receive a replacement watcher's certificate issued by the Court.

Individuals may not serve as poll watchers except as specifically described above.

3 POLL WATCHERS AT THE POLLING PLACE

What poll watchers CAN do at the polling place

Each candidate may appoint two poll watchers for each election district in which he or she appears on the ballot. Each political party and political body which has nominated candidates on the ballot may appoint three poll watchers for each election district at any general, municipal or special election in which the candidates of such party or body are on the ballot. **However, only one poll watcher may be present in the polling place at one time for each candidate at primaries or for each candidate, party, or political body during general, municipal or special elections,** from the time election officers meet prior to the opening of the polls until the time that the counting of votes is complete. It is also important to note that **all poll watchers must remain outside the enclosed space.**

Watchers allowed in the polling place are permitted to keep a list of voters. Watchers may make good faith challenges to an elector's identity, continued residence in the election district, or qualifications as an eligible voter. Poll watchers should direct permitted challenges directly to the Judge of Elections. The Judge of Elections has the obligation to determine if the challenge is based on actual evidence and whether there is a good faith basis to believe that the person is not or may not be a qualified elector.

Challenges cannot be based on race, national origin, appearance, surname, language, religion or other characteristic not relevant to the qualifications to vote. The race, ethnicity, national origin, language, and religion of a person presenting themselves to vote are not sufficient bases for mounting a challenge. Discriminatory challenges that interfere with the free exercise of the elective franchise are unlawful under Pennsylvania law.

The Judge of Elections must not permit routine or frivolous challenges that are not supported by a stated good faith basis and evidence that a person is or may not be eligible. Challenges may not be affirmed and voters may not be refused a ballot unless the election officers of the precinct are satisfied that the challenger has proven the voter's ineligibility on proper grounds and with sufficient evidence. The elected officers of the precinct (Judge of Elections, Majority and Minority Inspectors) have the responsibility of determining the qualifications of the person presenting themselves to vote. In the event of disagreement, the Judge of Elections decides.

Only when voters are not present in the polling place either voting or waiting to vote, the Judge of Elections shall allow poll watchers to inspect the voting check list and the numbered lists of voters maintained by the County Board of Elections. Poll watchers may not mark upon or alter any official election records. The Judge of Elections shall supervise or delegate supervision to other poll workers over a poll watcher's inspection of these documents.

What watchers CANNOT do at the polling place

Poll watchers must remain a safe and respectful distance away from the space where voting is occurring. Poll watchers may not engage, attempt to influence, or intimidate voters or otherwise interfere with or impinge on the orderly process of voting. Social distancing measures should be maintained to ensure a safe polling place for voters and poll workers.

Voter intimidation and threatening conduct are illegal under federal and Pennsylvania law. Any activity by a poll watcher that threatens, harasses, or intimidates voters, including any activity that is intended to, or has the effect of, interfering with any voter's right to vote, whether it occurs outside the polling place or inside the polling place, is illegal.

Examples of voter intimidation include, but are not limited to:

- Photographing or videotaping voters
- Disseminating false or misleading election information to voters
- Blocking the entrance to a polling place
- Confronting, hovering, or directly speaking to or questioning voters
- Any threatening behavior
- Asking voters for documentation

Poll watchers are also NOT allowed to engage in electioneering while inside the polling place or within 10 feet of the entrance to the polling place. Though watchers are representatives of candidates or political parties and political bodies, they are not entitled to electioneer on behalf of their candidate, political party, or political body while inside the polling place. Electioneering includes soliciting votes,

posting or displaying written or printed campaign materials, and handing out pamphlets or other campaign paraphernalia.

While the Judge of Elections at the polling place may not deter or interfere with a duly appointed watcher who is exercising her or his privileges as a watcher, the Judge of Elections is obligated to remove a watcher who is engaging in activities that are prohibited, including those referenced in this section.

The Judge of Elections has a duty to maintain order and ensure that the rules are being followed at the polling place. A Judge of Elections may call upon a constable, deputy constable, police officer or other peace officer to aid in maintaining order.

After the voting is complete, poll watchers may remain in the polling place, but outside the enclosed space where ballots are being counted and voting machines are being canvassed.

4 AUTHORIZED REPRESENTATIVES AT THE PRE-CANVASS AND CANVASS

The 2019 amendments to the Election Code expressly specify that one authorized representative for each candidate and one authorized representative for each political party must be permitted to remain in the room at the county election board where the pre-canvass and canvass meetings occur.

Authorized representatives are permitted to be present when envelopes containing official absentee ballots and mail-in ballots are opened and when such ballots are counted and recorded. This includes both the pre-canvass and canvass.

Authorized representatives (which includes poll watchers that have been designated by a candidate or political party to serve as authorized representatives during the pre-canvass or canvass) may not challenge an absentee or mail-in ballot during the pre-canvass or canvass of the ballots. Absentee and mail-in ballot applications may only be challenged prior to 5:00 pm on the Friday prior to the election, and only on good faith grounds that the applicant was not a qualified elector. No other challenges are permitted. Authorized representatives may not engage in, attempt to intimidate, nor interfere with the pre-canvass or canvass of the absentee and mail-in ballots. Challenges to mail-in or absentee ballots, based on signature analysis, are not permitted at any time.

Persons observing, attending, or participating in the pre-canvas meeting ARE PROHIBITED from disclosing the result of any portion of the pre-canvass prior to the close of the polls on election day.

Authorized representatives may not interfere with, hinder, or unlawfully delay a district election board or the County Board of Elections in the conduct of its duties. It is likewise a violation of Pennsylvania law to interrupt or improperly interfere with any election officer in the execution of his or her duties.

5 COUNTY ELECTION OFFICES, SATELLITE OFFICES, AND BALLOT RETURN SITES

Poll watchers and authorized representatives have no legal right to observe or be present at county election offices, satellite offices or designated ballot return sites, except to vote their own ballot or to perform personal tasks expressly permitted by the Election Code.

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Version History:

Version	Date	Description
1.0	10.6.2020	Initial document release