

Frequently Asked Questions:

The following is a brief informational summary of election practices and procedures concerning observing elections.

These FAQs are not intended as a substitute for existing laws and regulations

- Q. What's the difference between observers and poll checkers?**
- A.** There is no difference. Sometimes campaigns refer to their observers as "poll checkers."
- Q. Do Election Officials have to allow observers or poll checkers into all polling places?**
- A. Yes.** State law requires the election be held in the public view. To achieve the legal requirement that the election be held in public view, observers shall be allowed inside the polling place, outside the guardrail, unless they are disorderly or obstruct the access of voters. Observers may keep notes including marked voting lists. If there are so many observers in the polling place that they obstruct voters, they may be asked to cooperate in collecting information. The warden may exclude from the polling place any person who is disorderly or who obstructs the access of voters. 950 C.M.R. § 54.04(22)(a).
- Q. Do Election Officials have to let observers into the polling place before the polls open?**
- A. Yes.** They must be allowed into the polling place at least one half hour before the polls open so that they can observe the public inspection of the voting equipment or test results where scanning equipment is used, at least one half hour before the polls are set to open. G. L. c. 54, § 35; 950 C.M.R. § 54.13(c).
- Q. Do Election Officials have to allow observers to remain in the polling place after the polls close?**
- A. Yes.** The voting lists and all ballots removed from the ballot box must be kept in open view of the voters present until enclosed and sealed up, and all proceedings in the canvass and counting of votes must be public and in open view of the voters. However, only election officers may take part in the actual process of counting and sealing the voting materials. During this process, the observers must stand outside the guardrail. G. L. c. 54, § 70.

Q. What if there are too many observers to fit into the limited space inside the polling place?

A. If there are so many observers in the polling place that they obstruct voters, they may be asked to cooperate in collecting information. 950 C.M.R. § 54.04(22)(a).

Q. Can observers be removed from the polling place?

A. Yes. The warden may direct the police officer or constable to remove from the polling place any person who is disorderly or who obstructs the access of voters. 950 C.M.R. § 54.04(22)(a).

Q. Do observers have to ask for permission to be in the polls before Election Day?

A. No. Although there is no requirement that observers notify the local election official that they will be at the polls, we strongly recommend notifying the local election official in writing prior to election day. Pursuant to 950 C.M.R. § 54.04(23)(b), if the polling place is not large enough to accommodate all observer-challengers, to the extent possible, priority will be given to those individuals representing candidates appearing on the ballot and to those who provided written notice to the local election official prior to the election.

Q. Do observers or poll checkers have to have a letter of authorization from an organization to be in the polling place?

A. No. Any person may be an observer or poll checker. However, we recommend that candidates provide their observers with a letter of authorization to avoid confusion when there is more than one observer indicating that they represent a candidate or organization.

Q. Do Election Officials have to provide observers or poll checkers with a table and/or chair?

A. No. However, local election officials may provide a table and/or chairs at their discretion.

Q. Do Election Officials have to allow observers to bring a table and/or chair?

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- Q. Can the observers sit at the check-in or check-out table with the poll workers?**
- A. No.** Observers must remain behind the guard rail at a fixed location in the polling place designated by the election officer. 950 C.M.R. § 54.04(23)(b).
- Q. Can observers go beyond the guard rail?**
- A. NO.** The only persons allowed beyond the guard rail are voters who are in the process of voting (who may bring their children) and election officials, including the police officer or constable. 950 C.M.R. § 54.04(24).
- Q. Can an observer view the number on the ballot box?**
- A. No.** But any person may ask the warden to read the number on the ballot box. 950 C.M.R. § 54.04(25).
- Q. Can observers or voters wear candidate buttons or stickers inside the polling place?**
- A. No.** No person can be inside the polling place (or within a 150 feet of the polling place) wearing campaign buttons, t-shirts, hats, etc. 950 C.M.R. § 54.04(22)(c).
- Q. Can observers use laptops or blackberries in the polling place?**
- A. Yes.** However, they must be silenced so that no audio is heard from either notifications or typing. Additionally, they cannot be plugged in at the polling place.
- Q. Can observers converse on cell phones in the polling place?**
- A. No.** Observers should be instructed to turn off cell phones while in the polling place. If they need to make a phone call, they must leave the polling place. 950 C.M.R. § 54.04(23)(b).
- Q. Can observers ask voters for their name and/or address?**
- A. No.** Observers cannot talk directly to voters inside the polling place. 950 C.M.R. § 54.04(23)(b).
- Q. Can observers ask voters to show identification?**
- A. No.** Observers cannot talk directly to voters inside the polling place. 950 C.M.R. § 54.04(23)(b).

Q. Can observers challenge voters?

A. Yes. An observer can challenge the qualifications of any voter for any legal cause, such as they do not believe the person is the voter named, they do not believe the voter is a US citizen or 18 years of age, they believe the voter has already voted, they believe the voter no longer lives at the given address, etc. However, the challenger must provide information specific and personal to the challenged voter as to the reasons that the voter is not qualified to vote in the election in that precinct. 950 C.M.R. § 54.04(23)(d).

Q. What is the process for challenging a voter and who may make such challenges?

A. Any election officer or other person may challenge a person's right to vote for any legal cause. The challenger may challenge an absentee ballot as well for reasons allowed by law. The challenger must state based upon information particular to that voter the reason for challenging the right of a person to vote, for example: this person is not old enough to vote; this person is not a U.S. citizen; this person should have been removed from the voting list; this person has already voted; this person is not the person he claims to be. G. L. c. 54, §§ 85, 85A; 950 C.M.R. § 54.04(23). When asked by an election officer, the challenger shall be required to briefly set forth factual information specific and personal to the challenged voter as to the reasons that voter is not qualified to vote in the election at that precinct.

It is not sufficient for the challenger to simply say that a voter is not qualified; the challenger must state the specific reason for challenging the right of a person to vote based upon information particular to that voter and that specific reason must be recorded on the ballot. If the election officer determines that the challenger has not provided factual information specific and personal to that voter that the voter is not qualified to vote at that precinct, then the election officer shall reject the challenge on the grounds that the challenge was not based upon a legal cause.

The ballot must be challenged with reasons when the voter is checking-in but before they have marked their ballot. Once the election officer is informed that a voter's ballot is being challenged, the election officer must follow the steps in the General Laws and Code of Massachusetts Regulations, which include issuing the challenged voter's oath and recording the name and address of the voter and the challenger. G. L. c. 54, § 85.

The election official must record on the ballot the name and address of the voter and the name of the person challenging the ballot, and the specific reason for the challenge. 950 C.M.R. § 52.03(23) (challenge procedure for paper ballots, write the information on the outside of the ballot); 950 C.M.R. § 54.04(22) (challenge

procedure for optical scanning ballots, write the information on the back of the ballot).

Q. If an election officer determines that a challenge is not based upon a legal cause, is there anything else the officer needs to do?

A. Yes. The officer must record in the clerk's book the name of the challenged voter and the name of the challenger, as well as the stated reason for the challenge and the reason it was rejected.

Q. When can a challenge be made?

A. The voter must be challenged for a legal cause when the voter is checking-in and before the voter has marked their ballot. 950 C.M.R. § 54.04(23)(b).