

EXPERT INSIGHT | Election Integrity

POLL WATCHERS ARE CRITICAL FOR ELECTION ADMINISTRATION

Anna Pingel

TOPLINE POINTS

- ★ An America First election policy prioritizes meaningful election observation through authorized poll watchers (also called election observers, watchers, challengers, or agents in some states).
- ★ Poll watchers are critical to the proper administration of elections, preventing process errors and assisting if there are lawsuits or audits requiring firsthand evidence after an election is over.
- ★ States should formally recognize the importance of poll watchers and grant the highest level of observer access possible to them.

OVERVIEW

Upon entering a polling location, most voters become aware of several aspects of the election process: opening the voter roll books, signing one's name or showing an ID, and entering the voting booth. However, executing a successful election is much more complicated than this. Behind the scenes, many other details and processes must be correctly executed to ensure a fair, transparent, and efficient election. One such critical role is that of the [poll watcher](#). These individuals provide third-party accountability by observing critical stages of the electoral process and thereby creating transparency and fostering public confidence in electoral outcomes. This accountability helps jurisdictions avoid potential lawsuits and other election issues. Poll watchers are not election suppression; they are critical to effective election administration.

WHAT IS A POLL WATCHER?

Poll watchers are authorized observers stationed in polling places to watch election processes. [Forty-six states and the District of Columbia](#) permit poll watching in some capacity. In the jurisdictions that permit poll watching, they are generally appointed by political parties or candidates to serve for a given election, often with requirements for both major political parties to be represented in the pool of observers present. [Some state laws](#) allow poll watchers to observe the public procedures and

actions of election officials while other jurisdictions extend these powers to restricted areas not accessible to the public.

In most jurisdictions, poll watching consists of observing election officials at the polls carrying out their duties as election officials and alerting authorities and their respective local political party if they witness any violations of election law. They are often, but not always, allowed to be present after polls close in the areas where ballots are being counted to ensure that there are no fraudulent or otherwise ineligible votes counted. Often, poll watchers are permitted to “challenge” a prospective voter’s eligibility to vote based on requirements set by state law. These ballots are then held aside until the voters’ eligibility can be verified.

Poll watching has been [ingrained in the American electoral system](#) in some capacity since the founding in the 18th century. However, poll watching [became more prevalent](#) in the 1800s when voting was a public affair with no concept of a “secret ballot.” Therefore, the risk of voter intimidation was heightened and free and fair elections were in no sense a certainty. With the advent of the secret ballot, the role of the poll watcher shifted over time from preventing voter intimidation to its modern role of ensuring that the election is administered in an impartial, legal, fair manner. By observing and alerting election officials of concerns and violations of election law, poll watchers play an active role in ensuring that elections are carried out lawfully. Therefore, poll watchers serve as a watchdog against potential abuses or violations by election officials. For example, a poll watcher in Pennsylvania [prevented the distribution of multiple regular ballots](#) to those entitled solely to cast a provisional ballot in the 2020 general election, also observing that such individuals did not sign the registration book as required.

The critical nature of the poll watcher is especially clear when a reported violation is filed with election officials or a political party. When judges make rulings on Election Day surrounding conduct at a polling place, that ruling can consider testimony or evidence from poll watchers. Without poll watchers, many aspects of the electoral process would run on little more than the honor system. As an independent observer, poll watchers hold election officials accountable and prevent abuses by their respective political opponents. Especially in states where poll watchers are allowed meaningful observation powers and can challenge determinations made by election officials based on state and federal election law, voters can have greater confidence in the process of election administration.

VOTER INTIMIDATION BY POLL WATCHERS: A FALSE FLAG

In much of the current commentary on poll watching, there is expressed concern that the expansion of poll watching will lead to voter intimidation. Critics of poll watchers [cite allegations](#) of illegal conduct in the 1981 New Jersey gubernatorial election, or [examples](#) of poll watchers undertaking similarly illegal conduct. However, given the available historical evidence, and current legal practice, the risk of voter intimidation as a result of lawful poll watching activities is completely inaccurate. Such actions as cited above are beyond the scope of poll watchers’ legal authority. Efforts to paint poll watchers as voter intimidation actually undermine voter confidence and voter access by demonizing the very people who make elections more secure and transparent.



Legitimate poll watching activity rarely concerns voters directly. As the Center for Election Innovation & Research [states](#), “The main objective of partisan poll watchers is to ensure that no irregularities occur that could disadvantage their party or candidate.” Including poll watchers from both parties ensures that neither side is disadvantaged (or advantaged) by actions taken by election officials. Interactions between voters and poll watchers are generally minimal and aimed towards ensuring the integrity of the electoral process or verifying the identity of a prospective voter. State provisions which require credentials and training for poll watchers also serve as robust safeguards against would-be voter intimidators.

STATE LAWS ABOUT POLL WATCHERS

Below, the states are divided into three tiers reflecting how they incorporate poll watchers into their elections processes. The first tier includes states that allow meaningful observation from poll watchers. These states include a minimum of three specific criteria of statutory provisions: **(1) ability of poll watchers to have close proximity to processes, (2) affording poll watchers access to the full timeline of an election, including early voting and post-election processing, and (3) right of a poll watcher to challenge a voter’s eligibility or ballot.** The second tier includes states that allow limited observation from poll watchers, meaning that the state allows poll watchers but restricts distances they can be from processes or does not specify close proximity allowed, or gives limited access to records and processes. In this tier, there is also a lack of statutory uniformity about what poll watchers *can* do, leaving abundant discretion to election administrators and potentially restricting poll watcher access. The third tier includes states that allow little to no observation from poll watchers. This includes states that have no statutory provision for poll watchers or states whose provisions deny meaningful access, including severe distance requirements, prohibiting voter list inspection, or other prohibitive statutes.

TIER ONE STATES

- Texas ([Tex. Elec. Code ch. 33](#))
- Alaska ([Alaska Stat. § 15.10.170](#); [6 AAC 25.010–.020](#))
- Arkansas ([Ark. Code Ann. §§ 7-5-312, 7-5-904](#))
- Maryland ([Md. Elec. Law § 10-311](#); [COMAR 33.07](#))
- Mississippi ([Miss. Code Ann. §§ 23-15-571, 23-15-577](#))
- New Jersey ([N.J. Stat. §§ 19:7-1 to 19:7-6](#))
- Rhode Island ([R.I. Gen. Laws §§ 17-19-22, 17-22-2](#))
- Wisconsin ([Wis. Stat. § 7.41](#))

TIER TWO STATES

- Alabama ([Ala. Code §§ 17-8-7, 17-13-11](#))
- Arizona ([Ariz. Rev. Stat. §§ 16-515, 16-590](#); [Elections Procedures Manual](#))
- California ([Cal. Elec. Code §§ 15004, 15104, 15204, 15360](#))
- Colorado ([Colo. Rev. Stat. §§ 1-7-106, 1-7-108](#); [8 CCR 1505-1](#))
- Delaware ([Del. Code tit. 15, §§ 4933, 4977](#))
- District of Columbia ([D.C. Code § 1-1001.09](#); [D.C. Mun. Regs. tit. 3, § 706](#))
- Florida ([Fla. Stat. §§ 101.131, 102.031](#))
- Georgia ([Ga. Code Ann. § 21-2-408](#); [S.B. 202 \(2021\)](#))



- Hawaii ([*Haw. Rev. Stat. § 11-77*](#))
- Idaho ([*Idaho Code § 34-304*](#))
- Indiana ([*Ind. Code § 3-6-8 et seq.*](#))
- Iowa ([*Iowa Code §§ 49.104–105, 53.22–23*](#))
- Kansas ([*Kan. Stat. Ann. §§ 25-3004, 25-3005a*](#))
- Kentucky ([*Ky. Rev. Stat. §§ 117.315, 117.187*](#))
- Louisiana ([*La. Rev. Stat. § 18:427, 18:435, 18:1313*](#))
- Maine ([*Me. Rev. Stat. tit. 21-A, § 627*](#))
- Michigan ([*Mich. Comp. Laws §§ 168.730, 168.733*](#))
- Missouri ([*Mo. Rev. Stat. §§ 115.105, 115.107*](#))
- Montana ([*Mont. Code Ann. §§ 13-13-120, 13-13-241*](#))
- New Hampshire ([*N.H. Rev. Stat. §§ 666:4–5, 659:13-a*](#))
- New Mexico ([*N.M. Stat. Ann. §§ 1-2-21 to 1-2-32*](#))
- North Carolina ([*N.C. Gen. Stat. §§ 163-45.1, 163-166.35*](#))
- North Dakota ([*N.D. Cent. Code § 16.1-05-09*](#))
- Ohio ([*Ohio Rev. Code §§ 3505.21, 3509.06*](#))
- Pennsylvania ([*25 Pa. Stat. §§ 2687, 3146.8*](#))
- South Carolina ([*S.C. Code § 7-13-860*](#))
- South Dakota ([*S.D. Codified Laws §§ 12-18-8.1, 12-18-9*](#))
- Tennessee ([*Tenn. Code Ann. § 2-7-104*](#))
- Utah ([*Utah Code § 20A-3a-801*](#))
- Virginia ([*Va. Code § 24.2-604.4*](#))
- Wyoming ([*Wyo. Stat. § 22-15-109*](#))

TIER THREE STATES

- Connecticut ([*Conn. Gen. Stat. § 9-235*](#))
- Illinois ([*10 ILCS 5/17-23*](#))
- Massachusetts ([*Mass. Gen. Laws ch. 54, § 85A; Election Advisory 20-10*](#))
- Minnesota ([*Minn. Stat. §§ 204C.07, 204C.12*](#))
- Nebraska ([*Neb. Rev. Stat. §§ 32-961, 32-1013*](#))
- Nevada ([*Nev. Rev. Stat. §§ 293.274, 293B.353*](#))
- New York ([*N.Y. Elec. Law § 8-500*](#))
- Oklahoma ([*Okla. Stat. tit. 26, § 7-130*](#))
- Oregon ([*Or. Rev. Stat. §§ 254.415–.426; Vote by Mail Procedures Manual*](#))
- Vermont ([*Vt. Stat. tit. 17, § 2564*](#))
- Washington ([*Wash. Rev. Code §§ 29A.60.170, 29A.64.041*](#))
- West Virginia ([*W. Va. Code §§ 3-1-37, 3-1-41, 3-6-9*](#))

POLICY RECOMMENDATIONS

Election transparency is absolutely essential to the integrity of the election processes that underly our democratic system of government.



State Policy Recommendations

- States must make all efforts to enact laws allowing meaningful poll watcher observation access. Adopting laws akin to those in place in tier one states ensures that a minimum standard is met. **This specific statutory minimum is that poll watchers (1) must have close proximity to processes, (2) must be able to access the full timeline of an election, including early voting and post-election processing, and (3) are legally able to challenge for cause a voter's eligibility or ballot.**
- States should also (as is the case in Texas) enact laws creating specific penalties for obstruction of poll watchers. This provision also helps ensure that poll watchers are allowed unimpeded, meaningful observation access.
- State legislatures should also publicly recognize the essential work done by poll watchers by adopting concurrent resolutions affirming that poll watchers are critical to elections administration. Baseless accusations about poll watchers suppressing voter participation fly in the face of their historical role and modern practice. States should refute these allegations and remind the public about the important transparency and accountability that these individuals provide.

Federal Policy Recommendation

- The Election Assistance Commission (EAC) should strengthen their federal guidance on poll watchers to recommend that poll watchers are afforded meaningful observation. The EAC should publish a new “poll watcher best practice” manual highlighting the primary three criteria present in tier one states.

Public confidence in our elections depends the public believing that election officials are executing in a fair and even manner. Poll watchers are an independent set of eyes at the polls ensuring that all the rules are applied evenly to everyone. They represent yet another check on possible abuses that protects the integrity of our elections. In the Tier Three states that do not allow poll watchers, they should expand their processes to include these citizen watchdogs; Tier Two states should also re-evaluate and strengthen statutes related to poll watchers. Poll watching has always been a part of our electoral system and is integral to its proper functioning. It is time to acknowledge both their importance and their contribution to secure and transparent elections.

