

Midterms 2022: The Poll Observer Landscape | **Florida**

Poll observers — members of the public permitted to monitor conduct at polling places — are a feature of elections in nearly every state. They add a degree of transparency in the electoral process that promotes the public confidence in elections that is the lifeblood of democracy. However, in some cases, poll observers have also caused major disruption at the polls. For example, during the 2020 election in Michigan, large groups including partisan poll observers crowded polling sites and attempted to enter vote counting rooms.

The States United Democracy Center’s report “Midterms 2022: The Poll Observer Landscape” examines the relevant laws governing poll observers. We use this term to describe both poll watchers, private individuals who observe the election process, and election challengers, who have many of the same privileges and can also dispute whether a prospective voter is eligible to cast a ballot. (Our definition of “poll observers” for the purposes of this report does not include poll workers or other categories of officials permitted to be present at polling places.). We intend for this report to provide guidance regarding the power, privileges, and limitations of poll observers to statewide elected officials, law enforcement professionals, elections administrators, election protection groups, and others—regardless of partisan affiliation.

This report includes detailed summaries of 12 key states that saw record voter participation, many of which were also subject to significant attempts to undermine the electoral process by a variety of partisan actors in 2020. These summaries provide a review of state regulatory schemes concerning poll observers, detailing credentialing and training requirements as well as rights and responsibilities afforded to both poll watchers and election challengers in each state. The state summary provided here is among those included in our full report. We have excerpted it for greater ease of use, as we hope that these summaries will support the administration of free, fair, and secure elections.

Please note: this summary does not purport to catalog all state statutes or rules that may regulate the behavior of individuals who serve as poll observers and should not be relied upon as legal advice. To ensure accuracy, completeness, and the most up-to-date language, please consult official sources before relying on the authorities described in this report.



Florida

WHO IS PERMITTED TO WATCH OR CHALLENGE VOTERS AT THE POLLS AND HOW ARE THOSE ROLES DEFINED?

Poll Watchers:

Florida permits appointed poll watchers to observe conduct at the polls. (Fla. Stat. § 101.131(1)).

Challengers:

Any voter or poll watcher of a county may challenge the right of a person to vote in that county. (Fla. Stat. § 101.111(1)(a)). In practice, however, voters who are not poll watchers generally cannot challenge other voters at the polls, as Florida law does not make the desire to challenge voters' right to vote a sufficient basis to enter a polling place. (Fla. Stat. § 102.031(3)(a)).

HOW ARE WATCHERS AND CHALLENGERS APPOINTED OR DESIGNATED?

Poll Watchers:

Each political party, each candidate, and each political committee formed in favor of or to defeat a ballot measure may have one watcher at a time at each polling room or early voting area during the election. (Fla. Stat. § 101.131(1)). Each party, political committee, and candidate requesting to have poll watchers must provide a list of poll watchers for each polling site to the supervisor of elections before noon of the second Tuesday before the election. (Fla. Stat. § 101.131(2)).

Challengers:

Any voter or poll watcher of a county may challenge the right of a person to vote in that county. (Fla. Stat. § 101.111(1)(a)). There is no additional credentialing requirement for poll watchers to serve as challengers and there is no formal credentialing process required for a voter to challenge other voters.



ARE THERE ANY RESIDENCY OR TRAINING REQUIREMENTS FOR WATCHERS OR CHALLENGERS?

Poll Watchers:

Watchers must be registered voters in the county where they serve. (Fla. Stat. § 101.131(1)). Florida does not require training for watchers, but some counties provide their own.

Challengers:

Challengers must reside and be a registered voter in the same county as the voter they are challenging (Fla. Stat. § 101.111(1)(a)). There are no training requirements for challengers.

WHAT PRIVILEGES OR SPECIAL RIGHTS DO WATCHERS OR CHALLENGERS HOLD AT POLLING SITES?

Poll Watchers:

Poll watchers shall be allowed within the polling room or early voting area to watch and observe the conduct of voters and officials. (Fla Stat. § 101.131(1)). Watchers should be given access to observe in all polling rooms and early voting areas within the county they are assigned so long as the number of poll watchers at any particular polling place does not exceed the number provided in the election code. (Fla. Stat. § 101.131(4)).

Challengers:

The desire to challenge another's right to vote is an insufficient basis to enter a polling place. (Fla. Stat. § 102.031(3)(a)). No explicit privileges or rights exist for challengers beyond the right to challenge a voter of the same county. There are no limits on the number of good faith challenges a challenger may bring.



WHAT ARE WATCHERS OR CHALLENGERS RESTRICTED FROM DOING AT THE POLLS?

Poll Watchers:

While watchers are permitted at polling sites, they may not come closer to the officials' table or voting booths than is reasonably necessary to perform their duties and they may not in any way obstruct orderly conduct at the polls. (Fla. Stat. § 101.131(1)). Watchers may not interact with voters and should pose all questions directly to the clerk. (*Id.*) (Fla. Stat. § 101.131(1)). Poll watchers must wear an identification badge provided by the supervisor of elections while performing their duties. (Fla. Stat. § 101.131(5)). Lastly, poll watchers cannot take photographs within polling places. (Fla. Stat. § 102.031(5)).

Challengers:

When bringing forth a challenge, the challenger must sign a statutory oath and submit each challenge separately. (Fla. Stat. § 101.111(1)(a)). Any person found to have filed a frivolous challenge will be deemed to have committed a misdemeanor offense of the first degree. (Fla. Stat. § 101.111(b)(2)). This prohibition does not apply to challenges made in good faith. (*Id.*).

WHAT ARE THE GENERALLY APPLICABLE CIVIL OR CRIMINAL PROHIBITIONS ON INTERFERING WITH THE VOTING PROCESS?

Florida Stat. § 102.031 sets general procedures at polling sites and authorizes the removal of “disruptive and unruly persons.” (Fla. Stat. § 102.031(4)(c)). The statute further prohibits unlawful entry and photography in a polling place. (Fla. Stat. §§ 102.031(3)(a), (5)).

WHAT ARE THE CIVIL OR CRIMINAL PENALTIES FOR PEOPLE WHO INTERFERE WITH THE LAWFUL ACTIVITIES OF WATCHERS OR CHALLENGERS?

Other than the general prohibition on disruptive and unruly behavior at a polling place, Florida does not appear to impose any civil or criminal penalties for interfering with the lawful activities of watchers or challengers. However, after the polls close, election officials shall allow as many as three people to observe the counting process. (Fla. Stat. § 104.29). Any official who interferes with this observation commits a first-degree misdemeanor. (*Id.*).



This report does not constitute legal advice. Please consult official sources before relying on any of the authorities described in this report.

This guidance document was prepared by the States United Democracy Center.

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