

POLL WATCHER'S GUIDE



Issued by the

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INTRODUCTION

This "Poll Watcher's Guide" has been designed to familiarize poll watchers with their basic rights and responsibilities. The integrity of elections is a concern of all citizens, and although poll watchers may represent particular candidates, political parties, or specific-purpose political action committees, their main interest is in the conduct of a fair and honest election.

A poll watcher's role in an election is established by Chapter 33 of the Texas Election Code and is defined as follows:

Poll Watcher – a person appointed to observe the conduct of an election on behalf of:

- a candidate,
- a political party, or
- the proponents or opponents of a measure (specific-purpose political action committees).

It is the intent of the legislature that watchers duly accepted for service under Chapter 33 be allowed to observe and report on irregularities in the conduct of any election, but may not interfere in the orderly conduct of an election. A watcher appointed under Chapter 33 shall observe without obstructing the conduct of an election and call to the attention of an election officer any observed or suspected irregularity or violation of law in the conduct of the election. [Sec. 33.0015].

Throughout this guide, all references are made to appropriate sections in the Texas Election Code, unless otherwise noted.

QUICK POINTS TO REMEMBER

- In order to serve as a poll watcher, you must show up with a certificate of appointment that includes:
 - Name, residence address, and voter registration number of the poll watcher;
 - The signature of the person(s) making the appointment;
 - The election and the number of the precinct where the poll watcher is to serve;
 - An indication of the capacity in which the appointing authority is acting;
 - In an election on a measure, an identification of the measure (if more than one is to be voted on) and a statement of which side the appointee represents;
 - An affidavit to be executed by the poll watcher stating that the poll watcher will not have possession of any mechanical or electronic means of recording images or sound while serving as a watcher unless the poll watcher disables or deactivates the device; and
 - The signature of the poll watcher.
- You must complete the poll watcher training administered by the SOS and present the certificate of completion to the presiding judge.

- Be ready to counter-sign the certificate of appointment in front of the election judge. This serves not only to certify that the person presenting themselves as a poll watcher is the person named on the appointment, but also as the execution of the affidavit that the watcher does not have possession of any prohibited recording devices.
- If you are serving on election day and want to vote in a different precinct (from the location of service), we recommend voting during the early voting period, before your service as a poll watcher.
- Take the oath administered by the election officer.

QUALIFICATIONS OF WATCHER

Q. What are the qualifications of a watcher?

A. A watcher must:

1. be a registered voter of the territory (e.g., city, school district) covered by the election and of the county for November general elections for state and county officers (held on even-numbered years), primary elections, or other countywide elections; [Sec. 33.031]
2. NOT be a candidate for public office in an election held on the day the watcher seeks to serve; [Sec. 33.032]
3. NOT hold an elective public office; [Sec. 33.034]
4. NOT be an employee of an election judge or clerk serving at the same polling place; [Sec. 33.033]
5. NOT have been finally convicted of an offense in connection with conduct directly attributable to an election; [Sec. 33.035] and
6. NOT be related within the second degree of consanguinity or affinity (as determined by Tex. Gov't Code, Secs. 573.022-573.025) to an election judge or clerk serving at that polling place. These include spouses, siblings, grandparents, and grandchildren. A watcher may be related to the candidate the watcher is representing. [Sec. 33.033].

Q: Can a person who has been finally convicted of an election offense serve as a watcher?

A: No. A person convicted of any election offense cannot serve as a watcher. [Sec. 33.035].

Q. Does a poll watcher need to live within the election precinct in which the watcher is serving?

A. No.

Q. Can a person serve as a watcher in an election if they are a candidate running for a public office?

A. No. A person is ineligible to serve as a watcher in an election if the person is a candidate for public office in an election to be held on the same day. [Sec. 33.032].

Q. Are elected public officials allowed to serve as watchers in any election?

A. No. A person who holds an elective public office is ineligible to serve as a watcher. [Sec. 33.034].

Q. Can officers of a political party serve as watchers?

A. Yes. They may serve because they are not elected public officers. [Sec. 33.034].

Q. Can a watcher work for, or be related to, any of the election officials?

A. No. The watcher cannot be an employer or employee of, or related within the second degree by consanguinity or affinity to, an election judge, election clerk, early voting clerk, or deputy clerk serving at the same location. [Sec. 33.033].

Q. Can a candidate's spouse or child serve as a watcher?

A. Yes.

APPOINTMENT OF WATCHER

APPOINTMENT OF WATCHER BY POLITICAL PARTIES:

Q. Who appoints a watcher on behalf of political parties?

- A. 1. The county chair of each political party that has a nominee(s) on the official ballot may appoint watchers. [Sec. 33.003(a)].
2. Any three members of the county executive committee may appoint watchers, if the county chair fails to act. [Sec. 33.003(b)].

APPOINTMENT OF WATCHER BY A CANDIDATE:

Q. Who appoints a watcher on behalf of candidates?

- A. 1. A candidate whose name appears on the official ballot or on the list of declared write-in candidates in an election for any office (other than the office of Vice President of the United States) may appoint a watcher. In other words, watchers may be appointed by any candidate whose name appears on the ballot other than the candidate for Vice President. For a state office that is filled by voters of more than one county, the candidate's campaign treasurer also may appoint a watcher. [Sec. 33.002(a) & (b)].
2. For a federal office that is filled by voters of more than one county, the chair or treasurer of the candidate's principal campaign committee or a designated agent of the campaign chair or treasurer may appoint a watcher. [Sec. 33.002(c)].
3. A group of registered voters may appoint watchers on behalf of a write-in candidate in an election in which declarations of write-in candidacy are not required to be filed. The minimum number of voters required to make an appointment under this section is the lesser of 15 or five percent of the registered voters of the appropriate territory as determined from the list of registered voters to be used for the election. [Sec. 33.004].

- To be eligible to sign an appointment of a watcher to a precinct polling place, a person must be a registered voter of the precinct.

NOTE: To be eligible to sign an appointment of a watcher to a countywide polling place, a person must be a registered voter of the entity ordering the election.

- To be eligible to appoint a watcher to an early voting polling place, early ballot board meeting, or a central counting station, a person must be a registered voter of the county, city, school district, or other political subdivision conducting the election. [Sec. 33.004].

APPOINTMENT OF WATCHER FOR ELECTIONS ON MEASURES:

Q. Who appoints a watcher for elections on measures?

- A. The campaign treasurer or an assistant campaign treasurer of a **specific-purpose** political action committee that supports or opposes a measure may appoint watchers. [Sec. 33.005(a)]. For information on establishing a specific-purpose political action committee, please contact the Texas Ethics Commission at 512-463-5800 or www.ethics.state.tx.us.

NOTE: Section 33.005 does not apply to a referendum measure submitted at a primary election. [Sec. 33.005(b)].

MAXIMUM NUMBER OF WATCHERS:

Q. What is the maximum number of watchers that can be appointed by each appointing authority?

- A. 1. A maximum of seven (7) watchers may be appointed for each early voting polling place (no more than two may be on duty at the same location and at the same time); and
2. A maximum of two (2) watchers may be appointed for each precinct polling place, meeting place for an early voting ballot board (and signature verification committee, if one is appointed), or central counting station involved in the election. [Sec. 33.007].

ACTIVITIES A POLL WATCHER MAY OBSERVE:

A poll watcher is entitled to observe the following activities at early voting by personal appearance locations and election day locations:

1. Early voting by personal appearance polling place activities, including time before and after the polls close. [Secs. 33.052 and 81.002].

NOTE: If present, a poll watcher should sign the record of early voting ballot box seals or other specific chain of custody forms, if applicable.

2. Election day polling place activities, including time before and after the polls close. [Sec. 33.052].

NOTE: If present, a poll watcher should sign zero tapes before the polls open and after the polls close pursuant to Section 61.002 of the Election Code. See Tex. Sec'y of State Election Advisory No. 2019-23.

3. Any activity related to curbside voting, except as provided by Section 33.057. [Sec. 64.009(e)].
4. Early voting ballot board meeting activities.
5. Central counting station activities.
6. Central accumulation station activities.
7. Signature verification committee activities.
8. Voter being assisted by an election official.

NOTE: A watcher may not be present at the voting station when a voter is preparing the voter's ballot or is being assisted by a person of the voter's choice, including by a person also serving as an interpreter at the voting station. [Sec. 33.057(b)].

9. Inspecting and securing the voting equipment. (Must present certificate of appointment; certificate must be returned to the watcher.) [Sec. 33.059].
10. Delivery of election results from polling place. [Sec. 33.060].
11. All election activities relating to closing the polling place, including the sealing and transfer of a memory card, flash drive, hard drive, data storage device, or other medium now existing or later developed for use with voting system equipment. [Sec. 33.0605(a)].
12. Follow the transfer of election materials from the polling place to the regional tabulating center, central counting station, or other location designated to process election materials. [Sec. 33.0605(b)].

TRAINING PROGRAM

To be eligible to serve as a watcher, a person must complete the training program developed by the Secretary of State's office. [Secs. 33.008, 33.031(b)]. The training program can be found on VoteTexas.Gov.

CERTIFICATE OF COMPLETION

The watcher must deliver a certificate of completion from training to the presiding judge at the time the watcher reports for service. [Sec. 33.051].

A person appointed to serve as a watcher must complete watcher training prior to every election for which the person is appointed to serve as a watcher. A person is not required to complete training for a resulting runoff election, or a second election to resolve a tie, if the watcher completed training for the initial election.

A separate certificate of completion must be delivered at each place the watcher is appointed to serve. The certificate of completion and the certificate of appointment must be delivered to the presiding judge at the time the watcher presents to serve. The presiding judge shall retain the certificate of completion and certificate of appointment with the election records. If a watcher intends to serve at multiple locations, the watcher should make multiple copies of their

certificate of completion to present at each location the watcher is appointed to serve. [Sec. 33.051].

NOTE: A watcher **may** complete additional training; however, a watcher **must** complete the prescribed SOS training and present the certificate of completion to the presiding judge at the time the watcher reports for service.

ACCEPTANCE OF WATCHER

A watcher appointed to serve at a polling place, meeting of the early voting ballot board, or central counting station must deliver 1) their certificate of appointment; and 2) their certificate of completion from SOS training to the presiding judge at the time the watcher reports for service. Before being accepted for service, a watcher must take an oath administered by the election officer. [Sec. 33.051(a), (h)].

It is a Class A misdemeanor for an election officer to intentionally or knowingly refuse to accept a watcher for service when acceptance of the watcher is required. [Sec. 33.051(g)].

TIME FOR REPORTING TO THE POLLING PLACE:

Q. At what time do watchers need to report to the polling place, and how long do they need to stay at that polling place?

A. 1. At the polling place on **Election Day**, a poll watcher may begin service at any time after the presiding judge arrives and may stay at the polling place until election officials complete their duties. [Sec. 33.052].

NEW LAW: HB 1631 (2023, R.S.) eliminated the requirement for poll watchers to serve for five continuous hours at a polling place on election day in order for the watcher to serve the hours they choose.

2. At an **early voting** polling place, a poll watcher:

- may be present at the polling place at any time it is open and until voting equipment is secured on the close of voting each day; and
- may serve during the hours the watcher chooses. [Sec. 33.053].

NOTE: A poll watcher may be appointed to observe early voting by personal appearance only; a poll watcher is not entitled to observe the procedures related to early voting by mail.

NOTE: The information placed on the early voting roster of people who voted by personal appearance, and those for whom an early voting ballot by mail has been received, is not available for public inspection by anyone until 11 a.m. on the first business day following the day the voter voted in person or the voter's ballot is received by the early voting clerk. [Sec. 87.121].

A poll watcher cannot obtain a copy of an application for a ballot to be voted by mail from the early voting clerk until the first business day after the election day

of the earliest election for which the application is valid. Therefore, an Annual ABBM will not be available for public inspection or copying until the first business day after the election day of the earliest election held each calendar year for which the application is valid, except to the voter seeking to verify that the information is accurate. [Sec. 86.014].

3. At an **early voting ballot board meeting** (including the signature verification committee), a poll watcher:

- may be present at any time the board is processing or counting ballots and until the board completes its duties; and
- may not leave during voting hours on election day without the early voting ballot board judge's permission once the board has begun counting the ballots. [Sec. 33.054].

4. At the **central counting station**, a poll watcher:

- may be present at any time the central counting station is open and has convened for the purpose of processing or preparing to process election results and until the election officers complete their duties at the station; and
- may not leave during voting hours without the presiding judge's permission if the counting of ballots at the central counting station has begun. [Sec. 33.055].

NOTE: The presiding judge of the central counting station, in cooperation with the county clerk/elections administrator, may choose to withhold the release of vote totals until the last voter has voted. [Sec. 127.1311].

CERTIFICATE OF APPOINTMENT

ISSUANCE OF CERTIFICATE:

The appointing authority must issue a certificate of appointment to the watcher. [Sec. 33.006(a)].

Q. What information needs to be on the certificate?

A. The certificate of appointment must be in writing and must include the following:

1. Name, residence address, voter registration number, and signature of the watcher;
2. The election and the number of the precinct (or other location, for example, early voting ballot board meeting) at which the watcher is appointed to serve;
3. The signature of the person(s) making the appointment;
4. An indication of the capacity in which the appointing authority is acting (example: as a candidate, a campaign treasurer or assistant campaign treasurer of a specific-purpose political action committee);
5. In an election on a measure, an identification of the measure (if more than one is to be voted on) and a statement identifying which side the appointee represents; and
6. An affidavit executed by the poll watcher stating that the poll watcher will not have possession of any mechanical or electronic means of recording images or sound while serving as a watcher unless the poll watcher disables or deactivates the device. (This

affidavit is signed in the presence of the presiding judge; that signature also serves as the countersignature, which is discussed below.) [Sec. 33.006(b)].

NOTE: Officially-prescribed poll watcher appointment forms may be found on our website at <https://www.sos.state.tx.us/elections/forms/pol-sub/index.shtml>

Q. What are the requirements for a certificate of a watcher appointed on behalf of a non-declared write-in candidate?

A. Additional requirements necessary for a certificate of appointment of a watcher for a non-declared write-in candidate include:

1. the residence address and voter registration number of the lesser of 15 voters or 5 percent of the registered voters in the precinct or political subdivision, as applicable;
2. the signed statement of the candidate, or a person who would be authorized to make appointments on the candidate's behalf if the candidate's name appeared on the ballot, that the appointment is made with the signer's consent; and
3. the residence or office address of the write-in candidate or the person who would be authorized to make appointments on the candidate's behalf if the candidate's name appeared on the ballot. If the candidate does not sign, the signer must indicate his or her relationship to the candidate. [Sec. 33.006(c)].

Q. How does one deliver a certificate of appointment?

- A.
1. A watcher must deliver a certificate of appointment and certificate of completion to the presiding judge at the time the watcher reports for service. [Sec. 33.051(a)].
 2. The officer presented with a watcher's certificates must require the watcher to countersign the certificate of appointment in the officer's presence to verify that the watcher is the same person who originally signed the certificate. The watcher's signature is in the portion of the certificate containing the affidavit that the watcher does not have possession of any prohibited recording devices; this serves as the acknowledgement of the affidavit, acknowledgement of the required training, and the countersignature. [Sec. 33.051(b)].
 3. A watcher may not be accepted for service unless he or she provides an affidavit executed by the poll watcher stating that the poll watcher will not have possession of any mechanical or electronic means of recording images or sound while serving as a watcher unless the poll watcher disables or deactivates the device.
 4. The judge must keep the certificate of appointment and certificate of completion in envelope no. 2 (or other designated container), which is returned to the custodian of election records after the election. [Sec. 66.023(7)].
 5. The certificates of a watcher serving at an early voting polling place must be retained at the polling place until the voting period has concluded at the polling place. At each subsequent time that the watcher reports for service at that location, the watcher shall inform the clerk or deputy in charge. The officer may require the watcher to sign the watcher's name in the officer's presence, for comparison with the signature on the

certificate of appointment, if the officer is uncertain of the watcher's identity. [Sec. 33.051(d)].

6. If the watcher is rejected, the certificates should be returned to the watcher with a signed statement of the reason for the rejection. [Sec. 33.051(e)].

7. Before accepting a watcher, the officer presented with a watcher's certificate of appointment shall require the watcher to take the following oath, administered by the officer:

"I swear (or affirm) that I will not disrupt the voting process or harass voters in the discharge of my duties." [Sec. 33.051(h)].

DUTIES AND PRIVILEGES OF A WATCHER

A watcher is entitled to sit or stand near enough to see and hear the election officers conducting the observed activity, except as otherwise prohibited by Chapter 33. A watcher **may not** be denied free movement where election activity is occurring within the location at which the watcher is serving. A watcher who is entitled to "observe" an election activity under the Election Code is entitled to sit or stand near enough to see and hear the activity. [Sec. 33.056].

Additionally, under Section 33.061, it is an offense if a person serving in an official capacity takes any action to obstruct the view of a watcher or distance the watcher from the activity or procedure to be observed in a manner that would make observation not reasonably effective. Under Section 33.063, the appointing authority for a watcher who believes that the watcher was unlawfully prevented or obstructed from the performance of the watcher's duties may seek:

- 1) injunctive relief under Section 273.081, including issuance of temporary orders;
- 2) a writ of mandamus under Section 161.009 or 273.061; and
- 3) any other remedy available under law.

Q. What are a watcher's duties?

A. The primary duty of a watcher is to observe the conduct of the election at the location where the watcher has been appointed. A watcher is entitled to sit or stand near enough to see and hear the election officers conducting the observed activity except as prohibited by law. [Sec. 33.056(a)]. A watcher may point out to an election judge or clerk any observed irregularity or violation of law. However, if the clerk refers the watcher to the judge, the watcher may not discuss the matter further with the clerk unless the presiding judge invites the discussion. [Sec. 33.058(b)].

Q: May watchers wear name tags?

A: In fact, they must. A poll watcher **MUST** wear a form of identification prescribed by the Secretary of State and provided by the presiding judge or other election officer (such as the deputy early voting clerk). [Sec. 33.051(f)].

Q. What are watchers NOT allowed to do while on duty?

- A. 1. Talk with an election worker regarding the election except to call attention to an irregularity or violation of law. [Sec. 33.058(a)(1)].
2. Converse with a voter. [Sec. 33.058(a)(2)].
3. Communicate in any manner with a voter regarding the election. [Sec. 33.058(a)(3)].
4. Use certain devices in the polling place. A watcher may not have possession of a device capable of recording images or sound. If the watcher does have such a device, the watcher must disable or deactivate the device while serving as a watcher. [Sec. 33.006(b)(6)].
5. Observe a voter voting independently or a voter being assisted by a person of the voter's choice. A watcher may not be present at the voting station when a voter is preparing the voter's ballot or being assisted by a person of his choice. [Sec. 33.057(b)].
6. **Cause a disruption or breach of the peace or harass voters.** A watcher **may not violate** the Election Code either in the polling area or within 100 feet of the entrance to the building where the polling place is located; otherwise, the watcher may be subject to removal. [Sec. 32.075].
7. Reveal the following information before the polls close:
 - How a voter has voted; this offense is a third-degree felony. [Sec. 61.006(b)].
 - The number of votes that have been received for a candidate or for or against a measure; this offense is a Class A misdemeanor. [Sec. 61.007(a)(1)].
 - A candidate's position relative to other candidates in the tabulation of the votes; this offense is a Class A misdemeanor. [Sec. 61.007(a)(2)].
 - Whether a measure is passing or failing; this offense is a Class A misdemeanor. [Sec. 61.007(a)(3)].
 - The names of persons who have or have not voted in the election; this offense is a Class A misdemeanor. [Sec. 61.007(a)(4)].

Q. What is a watcher permitted to do while on duty?

- A. A watcher must be permitted, but is not required, to:
 1. Witness the installation of voting system equipment at the polling place. [Sec. 33.059].
 2. Observe the securing of voting system equipment before the election. [Sec. 33.059].
 3. Observe any activity conducted at the location at which the watcher is serving, and sit or stand near enough to see and hear the election officials to observe the activities of the election. [Sec. 33.056(a)].
 4. Observe any activity related to curbside voting, except as provided by Section 33.057. [Sec. 64.009(e)].
 5. Make written notes while on duty. However, if the watcher is permitted to leave the polling place while the polls are open, the watcher may be required to leave his or her written notes with another person selected by the watcher who is on duty at the polling place. [Sec. 33.056(d)].
 6. Observe assistance given to voters by election officials and inspect the ballot before it is deposited in the ballot box to determine if it was prepared in accordance with the voter's wishes. [Sec. 33.057(a)].

NOTE: A watcher may not be present at the voting station when a voter is preparing the voter's ballot or is being assisted by a person of the voter's choice, including by a person also serving as an interpreter at the voting station. [Sec. 33.057(b)].

7. Inspect the returns and other records prepared by the election officers. [Sec. 33.056(c)].
8. Observe, but not participate in, the tallying and counting of the votes to verify that the votes are tallied and read correctly. [Sec. 33.056(b)].
9. Observe all election activities relating to closing the polling place, including the sealing and transfer of a memory card, flash drive, hard drive, data storage device, or other medium now existing or later developed for use with voting system equipment. [Sec. 33.0605(a)].
10. Accompany authorized election officials in delivering election records from a precinct polling place, an early voting polling place, a meeting place for an early voting ballot board, or a central counting station. [Sec. 33.060(a)].

NOTE: Poll watcher and election officials do not need to ride in the same vehicle. [Sec. 33.060(b)].

11. Witness the securing of the voting system equipment at the time the polls close. [Sec. 125.063].
12. Follow the transfer of election materials from the polling place to the regional tabulating center, central counting station, or other location designated to process election materials. [Sec. 33.0605(b)].
13. Receive an English translation of any language spoken other than English between an election official and a voter. [Sec. 61.036].

Q. Can a watcher leave the election day polling place temporarily during the time the polls are open?

- A. Yes. A watcher may begin service at any time after the presiding judge arrives at the polling place on election day and may remain at the polling place until the presiding judge and the clerks complete their duties. A watcher may serve at the polling place during the hours the watcher chooses, except that if the watcher is present at the polling place when ballots are counted, the watcher may not leave until the counting is complete. [Sec. 33.052].

NEW LAW: HB 1631 (2023, R.S.) eliminated the requirement for poll watchers to serve for five continuous hours at a polling place on election day in order for the watcher to serve the hours they choose.

Q. Can a watcher leave the polling place after the time for closing the polls without obtaining permission from the presiding judge?

- A. The watcher may leave without permission from the judge, except that if the watcher is present at the polling place when ballots are being counted, the watcher may not leave until the counting is complete. [Sec. 33.052].

MISCELLANEOUS
REMOVAL OF A POLL WATCHER

A presiding judge may not have a watcher removed from the polling place for violating a provision of the Election Code or any other provision of law relating to the conduct of elections unless the violation was observed by an election judge or clerk. However, a presiding judge may remove a poll watcher for a violation of the Penal Code, regardless of whether the election judge or clerk observed the violation. Additionally, a presiding judge may call a law enforcement officer to request a poll watcher be removed if the poll watcher commits a breach of the peace or a violation of law. [Sec. 32.075(g), (h)].

POSSIBLE ILLEGAL ACTIVITIES:

Q. What illegal activities should a watcher look for?

A. The election judge may be notified of any activity that appears to be prohibited by law. If any of the following activities occur, bring it to the election judge's attention and note the individual(s) involved, including time and place of occurrence:

1. Election workers allowing voters to vote a regular ballot who do not (1) present an acceptable form of photo identification; (2) present a supporting form of ID and execute a Reasonable Impediment Declaration, if a voter does not possess and cannot reasonably obtain an acceptable form of photo identification; or (3) present a Voter Registration Certificate with an "E" notation on it. [Sec. 63.001].

Please see Pages 15-16 for a list of acceptable forms of photo ID and a list of supporting forms of ID.

2. Electioneering and loitering within 100 feet of the entrance of the building in which a polling place is located. [Secs. 61.003 and 85.036]. Examples of electioneering include, but are not limited to, the following:
 - a. wearing or exhibiting a badge, insignia, emblem, or other similar communicative device item relating to a candidate, measure, or political party appearing on the ballot in the current election. [Sec. 61.010].

NOTE: An election judge, an election clerk, a state or federal election inspector, a certified peace officer, or a special peace officer appointed for the polling place by the presiding judge shall wear while on duty a tag or official badge that indicates their name and title or position. [Sec. 61.010]. **A poll watcher must also wear a badge indicating the person is a poll watcher.** The badge will be issued to the poll watcher by the election judge.

- b. unauthorized posting of signs, posters, or other similar items. [Sec. 62.013]
3. A candidate in an election commits a Class C misdemeanor if he or she is in the polling place for a purpose other than (1) voting or (2) official business in the building in which the polling place is located. However, a candidate may assist a voter without violating this section. [Sec. 61.001(b)].

EXCEPTION: It is a defense to prosecution under Section 61.001(b) if the candidate is (1) not in plain view or hearing of persons in the voting area or the area where voters are being qualified and (2) not engaged in campaign activity. [Sec. 61.001(c)].

4. Unlawful operation of a sound amplification device or sound truck used for campaigning purposes within 1,000 feet of a building in which a polling place is located [Sec. 61.004];
5. Bribing voters [Sec. 36.02, Penal Code];
6. Tampering with a direct recording electronic voting machine [Sec. 33.05, Penal Code];
7. Unlawfully influencing voters [Sec. 61.008];
8. Coercing voters [Sec. 36.03, Penal Code];
9. Unlawfully telling another person information that was obtained at the polling place about how a voter has voted [Sec. 61.006];
10. Unlawfully giving information about the status of the vote count or the names of people who have voted before the polls close [Sec. 61.007];
11. Tampering with voting equipment [Sec. 127.127];
12. Voting illegally [Sec. 64.012];
13. Unlawfully removing ballots from ballot box [Sec. 276.003];
14. Violation of the Election Code observed by an election judge or clerk [Sec. 32.075];
15. Unlawfully assisting voters [Sec. 64.036];
16. Unlawfully accepting or refusing to accept voters [Sec. 63.012];
17. Using a wireless communication device within 100 feet of a voting station [Sec. 61.014];
18. Interfering with the voting process; and/or
19. Violating any other Texas election laws.

PERSONS ALLOWED IN LOCATIONS RELATED TO ELECTIONS:

Q. Who is allowed inside certain locations related to elections?

A. The Election Code lists individuals who are permitted to be lawfully present in certain locations related to elections. [Secs. 61.001, 87.026, 127.008].

- **Polling Place/Early Voting Locations:** The following individuals may be lawfully present in a polling place from the time the presiding judge arrives until the precinct returns have been certified and the election records have been assembled for distribution following the election:
 - an election judge or clerk;
 - a watcher;
 - the Secretary of State;
 - a staff member of the Elections Division of the Office of the Secretary of State performing an official duty in accordance with the Election Code;
 - an election official, a sheriff, or a staff member of an election official or sheriff delivering election supplies;
 - a state inspector;

- a person admitted to vote;
 - a child under 18 years of age who is accompanying a parent who has been admitted to vote;
 - a person providing assistance to a voter under Section 61.032 or 64.032;
 - a person accompanying a voter who has a disability;
 - a special peace officer appointed by the presiding judge under Section 32.075;
 - the county chair of a political party conducting a primary election, as authorized by Section 172.1113;
 - a voting system technician, as authorized by Section 125.010;
 - the county election officer, as defined by Section 31.091, as necessary to perform tasks related to the administration of the election; or
 - a person whose presence has been authorized by the presiding judge in accordance with the Election Code.
- **Early Voting Ballot Board:** A person may be lawfully present in the meeting place of an early voting ballot board during the time of the board's operations if the person is:
 - a presiding judge or member of the board;
 - a watcher;
 - a state inspector;
 - a voting system technician, as authorized by Section 125.010;
 - the county election officer, as defined by Section 31.091, as necessary to perform tasks related to the administration of the election; or
 - a person whose presence has been authorized by the presiding judge in accordance with the Election Code.
- **Central Counting Station:** A person may be lawfully present in the central counting station while ballots are being counted if the person is:
 - a counting station manager, tabulation supervisor, assistant to the tabulation supervisor, presiding judge, or clerk;
 - a watcher;
 - a state inspector;
 - a voting system technician, as authorized by Section 125.010;
 - the county election officer, as defined by Section 31.091, as necessary to perform tasks related to the administration of the election; or
 - a person whose presence has been authorized by the counting station manager in accordance with the Election Code.

VOTER ID PROCEDURES

A voter who possesses an acceptable form of photo ID listed below and in Section 63.0101(a) of the Texas Election Code must present such acceptable form of photo ID. Voters who do not possess one of the forms of acceptable photo identification listed below, and cannot reasonably obtain one of these forms of acceptable photo identification listed below, may present a supporting form of identification of the voter and execute a Reasonable Impediment Declaration,

noting the voter's reasonable impediment to obtaining an acceptable form of photo identification, stating that the information contained in the declaration is true, that the voter is the same person appearing at the polling place to sign the declaration, and that the voter faces a reasonable impediment to procuring an acceptable form of photo identification.

List of Acceptable Forms of Photo ID ("List A"):

- Texas Driver License issued by the Texas Department of Public Safety ("DPS")
- Texas Election Identification Certificate issued by DPS
- Texas Personal Identification Card issued by DPS
- Texas Handgun License issued by DPS
- United States Military Identification Card containing the person's photograph
- United States Citizenship Certificate containing the person's photograph
- United States Passport (book or card)

With the exception of the U.S. Citizenship Certificate, which does not expire, the identification must be current or, for voters aged 18-69, have expired no more than 4 years before being presented for voter qualification at the polling place. A person 70 years of age or older may use a form of photo identification listed above that has expired for any length of time if the identification is otherwise valid.

If a voter does not possess one of the forms of acceptable photo identification listed above, and the voter cannot reasonably obtain such identification, the voter may execute a Reasonable Impediment Declaration and present one of the following supporting forms of identification:

List of Supporting Forms of ID ("List B"):

- copy or original of a government document that shows the voter's name and an address, including the voter's voter registration certificate;
- copy of or original current utility bill;
- copy of or original bank statement;
- copy of or original government check;
- copy of or original paycheck; or
- copy of or original of (a) a certified domestic (from a U.S. state or territory) birth certificate or (b) a document confirming birth admissible in a court of law which establishes the voter's identity (which may include a foreign birth document).

The voter must execute a Reasonable Impediment Declaration and present a supporting form of identification to complete the procedure. **The election judge, election clerk, or poll watcher cannot question the reasonableness of the impediment claimed by the voter. The poll watcher is not permitted to converse with any voter or communicate in any manner with any voter regarding the election, including, but not necessarily limited to, the Reasonable Impediment Declaration procedures or the presentation of voter identification.**

On the Reasonable Impediment Declaration, the voter must enter their name, indicate the voter's reasonable impediment to obtaining one of the seven forms of acceptable photo ID, and then sign and date the form in the presence of the election judge. The election judge must then indicate that the form was signed and sworn before the judge by also signing and dating the form. Either the poll worker or the election judge should also check the box listing the form of supporting documentation the voter presented, fill in the Date of Election and Location fields, and fill in the voter's Voter Unique Identification Number ("VUID") in the appropriate box or affix a sticker that contains that information across the box, and note on the Combination Form that the declaration was used by the voter.

NOTE: The address on either an acceptable form of photo identification or, if applicable, a supporting form of identification does not need to match the address on the list of registered voters.

If the voter's name on the list of registered voters does not match exactly to the ID presented (either an acceptable form of photo ID or, if applicable, a supporting form of identification), the voter must complete the "Substantially Similar Name Affidavit" on the Combination Form. [Sec. 63.001(c)].

PROVISIONAL VOTING:

Provisional voting is helpful in multiple scenarios, and provisional ballots must be offered to voters when required by the situations described below. However, a voter CANNOT be denied a provisional ballot in any circumstance.

An election judge commits an offense if the judge knowingly provides a voter with a form for an affidavit if the form contains information that the judge entered on the form knowing it was false. [Sec. 63.0111].

If a voter (a) does not possess one of the seven (7) acceptable forms of photo identification, which, for voters aged 18-69, is not expired for more than four years, or, for voters aged 70 and older, may be expired for any length of time but is otherwise valid, and the voter can reasonably obtain one of these forms of identification; or (b) possesses, but did not bring to the polling place, one of the seven forms of acceptable photo identification; or (c) does not possess one of the seven forms of acceptable photo identification, could otherwise not reasonably obtain one, but did not bring a supporting form of identification to the polling place; and the voter does not have a permanent disability exemption indicated on their voter registration certificate, the voter may cast a provisional ballot at the polls.

However, in order to have the provisional ballot counted, the voter will be required to visit the voter registrar's office within six calendar days of the date of the election to (1) present one of the seven (7) acceptable forms of photo identification; (2) present one of the supporting forms

of ID and execute a Reasonable Impediment Declaration, if the voter does not possess and cannot reasonably obtain one of the acceptable forms of photo identification; (3) if applicable, submit one of the temporary forms (e.g., religious objection or natural disaster) in the presence of the county voter registrar; OR (4) if applicable, qualify for the disability exemption to presenting an acceptable form of photo identification or following the Reasonable Impediment Declaration procedure at the polls. Specifically, forms are available for voters who have a consistent religious objection to being photographed and for voters who do not present a form of acceptable photo identification or follow the Reasonable Impediment Declaration procedure because of certain natural disasters as declared by the President of the United States or the Texas Governor within 45 days of the day the ballot was cast. In addition, voters with a disability may apply with the county voter registrar for a permanent exemption to presenting an acceptable form of photo identification or following the Reasonable Impediment Declaration procedure at the polls. The application must contain written documentation from the U.S. Social Security Administration evidencing the applicant's disability or from the U.S. Department of Veterans Affairs evidencing a disability rating of at least 50 percent. In addition, the applicant must state that he or she has no valid form of photo identification prescribed by Section 63.0101 of the Texas Election Code.

NOTE: If a voter has continued access to their acceptable form of photo ID, but, for example, forgets to bring their acceptable form of photo ID to the polling place and/or left it, for example, at home or in their car, the voter still possesses the acceptable photo ID and must use it to vote. Accordingly, if a voter possesses an acceptable form of photo ID but does not have it with them at the polling place and there is enough time left when polls are open, the voter may choose to return at a later time with an acceptable form of photo ID, or the voter may vote provisionally. A voter who does not possess an acceptable form of photo ID, and could not otherwise reasonably obtain one, but just did not bring a form of supporting ID to the polling place, may also opt to leave the polling place, and return at a later time with their acceptable form of supporting ID and vote a regular ballot after executing a Reasonable Impediment Declaration, or the voter may vote provisionally. Provisional ballots are not counted until the voter registrar and early voting ballot board verify the voter's eligibility. The affidavit that provisional voters must sign also acts as a voter registration application, ensuring that those individuals who are not registered voters will be registered for future elections for which they are eligible.

Q. When would an individual need to cast a provisional ballot?

A. The following individuals may cast a provisional ballot:

- A voter who states they do not possess an acceptable form of photo ID, and that they can reasonably obtain an acceptable form of photo ID.
- A voter who states that they do not possess an acceptable form of photo ID, and that they cannot otherwise reasonably obtain an acceptable form of photo ID, but they did not bring their form of supporting ID to the polling place.

- **NOTE:** A voter who does not possess and could otherwise not reasonably obtain an acceptable form of photo ID but just did not bring a form of supporting ID to the polling place may opt to leave the polling place and return at a later time with their acceptable form of supporting ID and vote a regular ballot after executing a Reasonable Impediment Declaration.
- A voter who states they possess an acceptable form of photo ID, but do not have it with them to present at the polling place.
 - **NOTE:** If a voter has continued access to their acceptable form of photo ID but, for example, forgets to bring their acceptable form of approved photo ID to the polling place and/or left it at home or in their car, the voter still possesses the acceptable photo ID and must use it to vote. This voter may opt to leave the polling place and return at a later time with their acceptable form of photo ID and vote a regular ballot.
- A voter who does not present an acceptable form of photo ID or follow the Reasonable Impediment Declaration procedure and has a religious objection to being photographed and the voter has consistently refused to be photographed for any governmental purpose from the time the voter has held this belief. [Sec. 65.054(b)(2)(B)].
- A voter who does not present an acceptable form of photo ID or follow the Reasonable Impediment Declaration procedure because of a natural disaster that was declared by the President of the United States or the Texas Governor, occurred not earlier than 45 days before the date the ballot was cast, and caused the destruction of or inability to access the voter's identification. [Sec. 65.054(b)(2)(C)].
- A voter whose name on the form of identification presented (either an acceptable form of photo identification or, if applicable, a supporting form of identification with a Reasonable Impediment Declaration) is determined by the election officer not to exactly match or be substantially similar to the name as it appears on the list of registered voters.
 - **NOTE:** A voter's name as listed on the identification presented (either an acceptable form of photo ID or, if applicable, a supporting form of ID with a Reasonable Impediment Declaration) for voting is considered **substantially similar** to the form of the name as listed on the list of registered voters if one or more of the following circumstances applies: 1) The name on the presented ID is slightly different from one or more of the name fields on the official list of registered voters; 2) The name on the presented ID or on the list of registered voters is a customary variation of the voter's formal name (for example, Bill for William); 3) the voter's name contains an initial, middle name, or former name that is either not on the official list of registered voters or on the presented ID; 4) a first name, middle name, former name, or initial of the voter's name occupies a different field on the presented ID than it does on the list of registered voters. In considering whether a name is substantially similar, election officials will also look at whether information on the presented ID matches elements of the voter's

information on the official list of registered voters such as the residence address or date of birth.

- A voter who presented a form of identification (either an acceptable form of photo identification or, if applicable, a supporting form of identification with a Reasonable Impediment Declaration) but whose identity cannot be verified by the identification presented, as determined by the polling place official per Section 63.001(d) of the Code.
- A voter who has received a disability exemption under Section 13.002(i) of the Code, but does not have or otherwise fails to present the voter’s voter registration certificate at the polling place indicating such exemption, or a voter who is eligible for a disability exemption under Section 13.002(i) of the Code but has not yet submitted the documentation required to receive such exemption.
- A voter who claims to be properly registered and eligible to vote at the election precinct where the voter presents himself or herself to vote, but the voter’s name does not appear on the precinct list of registered voters and the voter does not present a voter registration certificate indicating that the voter is currently registered as described in Section 63.006 of the Code.
 - **NOTE:** If the provisional voter indicates he or she is registered, the election officer must ask the person if they registered at DPS. If the person states they registered at DPS, the election officer must ask the person if he or she knows the approximate date that the person went to DPS. The election officer must then note that the voter went to DPS and, if the person knows, the approximate date of the DPS visit, on the Provisional Ballot Affidavit Envelope in the “Other” line.
- A voter who has applied for a ballot by mail, but does not have any of the following:
 - The mail ballot to surrender;
 - Notice of Improper Delivery; or
 - Notice of Surrendered Ballot
- A voter who votes during the polling hours that are extended by a state or federal court.
- A voter who is registered to vote but attempting to vote in a precinct other than the one in which the voter is registered.
- A voter who is on the election precinct list of registered voters, but whose registered residence address is outside the political subdivision in which the voter is presenting himself or herself to vote.
- Other: _____ (with an explanation). [See, e.g., Sec. 63.011; 1 T.A.C. §§ 81.172—81.176; Tex. Water Code § 49.1025].

Q. Who makes the determination if an individual is qualified to vote provisionally?

- A. A worker CANNOT deny a voter the right to vote a provisional ballot. However, an election judge may determine that a voter is eligible to cast a provisional ballot, and immediately inform the voter of that right.

Section 63.0111 states that an election judge commits an offense if the judge knowingly provides a voter with a form for an affidavit if the form contains information that the judge entered on the form knowing it was false.

In order to vote provisionally, the voter must complete and sign an "Affidavit of Provisional Voter," a form which will also serve as a voter registration application in the event the voter is not registered or as an update to the voter's registration record if the information is different.

Q. Are there cases when a provisional ballot will not be counted? When is a voter notified?

- A. While a provisional voter may be allowed to vote at the polling place, there are certain circumstances in which they will immediately be informed that their ballot will not be counted. For example, the election judge will notify the voter that their ballot will not be counted if:

- The voter does not present an acceptable form of photo identification, or, if the voter does not possess and cannot reasonably obtain an acceptable form of photo identification, the voter does not execute a Reasonable Impediment Declaration and present one of the acceptable forms of supporting identification, or submit one of the temporary forms (religious objection or natural disaster exemption), or submit the paperwork required to obtain a permanent disability exemption, to the county voter registrar within 6 calendar days from election day, or
- the ballot is cast at a precinct in which the voter is not registered (regardless of whether the voter is registered in another precinct in the same political subdivision).

Q. If a voter applied for a ballot by mail, may the voter vote provisionally at the election day precinct polling place without returning the mail ballot to the election judge?

- A. Yes. A voter who appears on the list of registered voters as having applied for and/or received a ballot by mail may go to the polling place and vote. If the voter does not have the ballot to return to the judge, he will have to vote a provisional ballot. If the mail ballot does not arrive at the ballot board before the provisional ballot, the provisional ballot will be counted. If the mail ballot arrives at the ballot board before the provisional ballot, the mail ballot will be counted. [Sec. 63.011].

Q. How are provisional ballots reviewed and handled?

- A. At the polling place, the election judge provides the provisional voter written notice informing the voter that they will be notified within 10 days after the local canvass as to whether or not their ballot was counted and, if not, why it was not counted. The notice also includes instructions and additional details regarding the provisional voting process.

The voter's eligibility to vote is reviewed by the voter registrar and the early voting ballot board must complete the processing and counting, where applicable, of the provisional ballots. Notice must be delivered to provisional voters regarding whether their ballot was counted and noting a reason if their ballot was not counted.

Q. How is the secrecy of the ballot preserved?

- A. The voter places the voted provisional ballot in a plain white ballot secrecy envelope, which is placed inside the Provisional Affidavit Ballot Envelope. Provisional ballots are placed either in a designated, secure container or Ballot Box No. 4 until the voter registrar and early voting ballot board complete their review. The transfer and tabulation of these ballots are handled with the same care, secrecy, and security as other ballots and voting system equipment. Note: If the voter is casting an electronic provisional ballot, the voter completes the affidavit on the provisional envelope but does not include a ballot.

Q. What is the deadline for reviewing provisional affidavits?

- A. The early voting ballot board must complete the processing and counting, where applicable, of the provisional ballots by the ninth day after the election (13th day after election day in the general election for state and county officers). Notice must be delivered to provisional voters regarding whether their ballot was counted and noting a reason if their ballot was not counted. This notice must be delivered no later than the 10th day after the local canvass. [Sec. 65.051; 1 T.A.C. §§ 81.172-81.174, 81.176].

USING ENGLISH AND INTERPRETERS:

All election officials, while performing their duties at the polling place, must use English, except when helping a voter who does not understand English. [Sec. 61.031(a)].

Q. What is an interpreter and when is one used?

- A. 1. If a voter cannot communicate in English, an election official may communicate with the voter in a language both the election official and the voter (or the voter's interpreter) understand. [Sec. 61.031(b)].
2. The voter may also select an interpreter to communicate with the election officer(s) attending to the voter in a language that is not English, regardless of whether the election officer who attempts to communicate with the voter understands or does not understand the language used by the voter, as long as the interpreter meets the qualifications in paragraphs 3 and 4 below. [Sec. 61.032].
3. Upon taking the oath of interpreter, any person selected by the voter other than the voter's employer, an agent of the voter's employer, or an officer or agent of the voter's labor union, may act as an interpreter for one or more voters. [Secs. 61.033(1), 61.035].
4. The interpreter may be a person provided by the authority conducting the election. If the interpreter is appointed to serve as an interpreter by an election official, the person must be a registered voter of the county in which the voter needing the interpreter resides or

a registered voter of an adjacent county. However, even if an interpreter is provided, a voter may use his own interpreter. [Secs. 61.032, 61.033(2)].

5. If the voter cannot comprehend the language in which the ballot is printed, the voter may receive assistance in accordance with Subchapter B, Chapter 64. [Sec. 61.034].
6. A watcher may request and receive an English translation of a language spoken other than English between an election official and a voter. [Sec. 61.036].

CASTING THE BALLOT:

Q. If voters make a mistake marking their ballot, can they start over?

- A. Yes, but there is a limit to how many times a voter may attempt to cast a ballot. Voters who make mistakes while marking their paper or optical scan ballots may take the spoiled ballot to an election official and exchange it for a new ballot. A voter may only receive up to two replacement ballots (the original ballot, plus two replacement ballots yields a total of **three possible ballots per voter**). [Sec. 64.007(a) & (b)].

Q: If a voter is voting provisionally on paper or optical scan ballot, does he or she use the same type of ballot as a regular voter?

- A: Yes, but the election officials may have a few ballots pre-stamped “provisional” in a separate stack from regular ballots. The following steps must occur:

- (1) the voter votes the ballot;
- (2) the voter seals the ballot in the ballot secrecy envelope;
- (3) the voter seals the privacy envelope in the provisional ballot affidavit envelope; and
- (4) the voter casts the ballot in the regular ballot box or other designated secured container as directed by the election officials.

NOTE: Some electronic voting systems allow the voter to cast a provisional ballot directly on the machine.

Q. If a voter leaves a voted ballot in the voting station or elsewhere in the polling place rather than putting it in the ballot box, or if a voter voting on an electronic voting system leaves without finally casting his or her ballot, is the ballot counted?

- A. No. A ballot that has not been deposited in the ballot box used for the deposit of marked ballots may not be counted. The judge should treat it as a cancelled ballot. [Sec. 65.010(a)(4)]. On an electronic voting system, the ballot must be cancelled using the procedures for cancellation on the system particular to the entity holding the election. The ballot left uncast by a “fleeing” voter may not be counted.

RECOUNT WATCHER

Similar to a poll watcher, a recount watcher (formerly termed a representative) is a person appointed to observe the conduct of the recount on behalf of:

- a candidate,
 - a political party, or
 - the proponents or opponents of a measure (specific-purpose political action committee).
- [Sec. 213.013].

RECOUNT WATCHER QUALIFICATIONS

Unlike a poll watcher, a recount watcher is not required to meet any particular qualifications to serve. A recount watcher is NOT required to complete the training under Section 33.008. The recount watcher is not required to be a registered voter of the territory in which the election was held. The recount watcher does not have to satisfy any age or citizenship requirements. Public officials are not prohibited from serving as recount watchers; nor is the recount watcher's eligibility affected by the familial relationship of a watcher to a person serving on the recount committee. For more information on recount procedures, please see the SOS's Recount Outline.

PERMITTED NUMBER OF RECOUNT WATCHERS

As the recount is conducted, each authority eligible to appoint a recount watcher is permitted to have watchers present in a number corresponding to the number of counting teams designated for the recount; however, if there is a single counting team, two recount watchers may be present. [Sec. 213.013(b)].

RECOUNT WATCHER APPOINTMENT

The watcher must deliver a certificate of appointment to the recount chair at the time the watcher reports for service. The certificate must be in writing and must contain:

- (1) the printed name and the signature of the recount watcher;
- (2) the election subject to the recount;
- (3) the time and place of the recount;
- (4) the measure, candidate, or political party being represented;
- (5) the signature and the printed name of the person making the appointment; and
- (6) an indication of the capacity in which the appointing authority is acting.

[Sec. 213.013(f)].

NOTE: No one entitled to be present at a recount may be in possession of a device capable of recording images or sound, unless the person agrees to disable or deactivate the device while present at the recount. [Sec. 213.013(i)].

The officially prescribed recount watcher appointment form may be found on our website at <https://www.sos.state.tx.us/elections/forms/pol-sub/index.shtm>

A recount watcher who submits a valid appointment form to the recount chair must be admitted to the recount unless the specific authority's maximum number of watchers have already been accepted. [Sec. 213.013(e)].

RECOUNT WATCHER'S DUTIES

Similar to a poll watcher, a recount watcher is entitled to observe any activity conducted in connection with the recount. Watchers are entitled to stand or sit conveniently near the officers engaged in the observed activity or near the officers counting or processing the ballots to verify that they are being counted correctly. Rules on the watcher's rights, duties, and privileges are otherwise the same as for a poll watcher to the extent applicable. [Sec. 213.013(h)].

Recount watchers may also be present in the same numbers prescribed under Section 213.013(b) to observe the printing of ballot images cast on direct recording electronic voting systems prior to the recount. [Sec. 213.016].

CONCLUSION

As a poll watcher or a recount watcher, you are entitled to observe the conduct of the election at the location to which you are assigned or the activities at a recount. You must keep in mind your responsibility to ensure the fair conduct of elections. Please remember, however, that the presiding officers are responsible for maintaining control and order. You should establish a cooperative relationship with these presiding officers and work with them to ensure that the voting process works smoothly. **Remember that you are not allowed to address voters directly.**

If any questions arise during your service that the presiding officer cannot answer or you question the accuracy of the information provided, you may call the Elections Division at our toll-free number, 1-800-252-VOTE(8683). The Elections Division is open Monday through Friday from 8:00 a.m. to 5:00 p.m., and during all uniform election dates from before the polls open until after they close. If you desire to learn more about the election process, please call our office to request one of our handbooks for election day officials and the early voting ballot board or our detailed recount procedures. You may also wish to review our online poll worker training at <https://pollworkertraining.sos.texas.gov>.

Thank you for your participation in the election process!