



NCEIT's POLL OBSERVER BILL SUGGETIONS

§ 163-45. Observers; appointment, access and permitted activity

(a) The chair of each political party in the county shall have the right to designate two observers to attend each voting ~~place at each location during early voting~~ one stop early voting, the primary and during each election day, and such observers may, at the option of the designating party chair, be relieved during the day of the primary or election after serving no less than four hours and provided the list required by this section to be filed by each chair contains the names of all persons authorized to represent such chair's political party. The chair of each political party in the county shall have the right to designate 10 additional at-large observers who are residents of that county who may attend any voting place in that county. The chair of each political party in the State shall have the right to designate up to 100 additional at-large observers who are residents of the State who may attend any voting place in the State. The list submitted by the chair of the political party may be amended between the one-stop period under G.S. 163-227.2, 163-227.5, and 163-227.6 and general election day to substitute one or all at-large observers for election day. Not more than two site-specific observers from the same political party shall be permitted in the voting enclosure at any time, except that in addition one of the and up to two at-large observers from each party may also be in the voting enclosure, provided no more than a total of three observers from the same political party are physically present in the voting enclosure at any time. This right shall not extend to the chair of a political party during a primary unless that party is participating in the primary. In any election in which an unaffiliated candidate is named on the ballot, the candidate or the candidate's campaign manager shall have the right to appoint two observers for each voting place consistent with the provisions specified herein. Persons appointed as observers by the chair of a county political party must be registered voters of the county for which they are appointed and must have good moral character. Persons appointed as at-large observers by the chair of a State political party must be registered voters of the State and must have good moral character. No person who is a candidate on the ballot in a primary or election may serve as an observer or runner in that primary or election. Observers shall take no oath of office.

(b) ~~Individuals authorized to appoint observers~~ County or State political party chairs may ~~must~~ submit a list of names of observers appointed by them electronically or in writing to the Director of the County Board of Elections. The Director shall supply the lists of site-specific observers for each voting location and the at-large observers to the chief judge and site supervisor for each voting location. ~~of each precinct a signed list of the observers appointed for that precinct except that the list of at-large observers authorized in subsection (a) of this section shall be submitted to the county director of elections.~~ Individuals authorized to appoint observers must provide their lists of appointed observers; prior to 10:00 A.M. on the fifth day before the observer is to serve ~~prior to any day, primary or general election,~~ submit in writing to the chair of the county board of elections two signed copies of a list of observers appointed by them, designating the precinct or at-large status for which each observer is appointed. Before the opening of the voting place on the day(s) of a primary or general election, the ~~chair~~ Director shall deliver one copy ~~of the precinct specific observer lists and the list of at-large observers,~~ to the chief judge or site supervisor for each affected precinct voting location. ~~except that the list of at-large observers shall be provided by the county director of elections to the chief judge. The chair shall retain the other copy. The chair, or the chief~~



~~judge and judges for each affected precinct, may for good cause reject any appointee and require that another be appointed. The names of any persons appointed in place of those persons rejected shall be furnished in writing to the chief judge of each affected precinct no later than the time for opening the voting place on the day of any primary or general election, either by the chair of the county board of elections or the person making the substitute appointment.~~

(c) An observer shall do no electioneering ~~at the~~ in the voting enclosure place, and shall in no manner communicate with any voter or impede the voting process ~~or interfere or communicate with or observe~~ of any voter, or observe the ballot markings of any voter ~~in casting a ballot~~, but, subject to these restrictions, the site administrators, chief judges and judges of elections shall permit the observers to have mobility about the voting enclosure and to make such observation and take such notes as observers may desire. The Board of Elections may require identification tags to be worn by observers for ease of recognition by voters and election officials.

(d) Election observers shall be permitted to:

(1) Move freely around the voting enclosure. Observers shall be permitted to position themselves a distance of five (5) feet or greater from the Registration and Ballot tables and they may position themselves a distance of five (5) feet from tabulation machines during voting. Observers may position themselves a distance of five (5) feet or greater from vehicle passenger compartments during curbside voting. Observers are authorized to hear conversations between poll workers and voters so long as Observers do not violate § 163.45(c) as cited above.

(2) Observe and record start up and shut down procedures including viewing and making a digital image or video record of zero poll tapes on tabulation machines before opening and the post-election poll tapes after the polls close.

(3) Begin observation duties from the time the judge or site supervisor enters the polling location until all ballot containers are officially sealed and the voting enclosure is secured for the day.

(4) Hear the voter and election worker recite name and address of the voter at the Registration table and to hear any conversation between the voter and election workers at the Registration table.

(5) Hear the voter and election worker recite name and address at curbside voting.

(6) Inspect, count, image and make a record of completed Authorizations to Vote (ATVs) at any time when the polls are open.

(7) Observe voting activity in the ballot marking area at a distance sufficient to prohibit the observation of the voter's ballot markings.

(8) Traverse freely between the curbside voting area and the voting enclosure without requiring permission from a judge or site supervisor.

(9) Observe curbside voting in such a manner as to hear verbal communications between the election assistant and the curbside voter.

(10) Maintain observation of ballot boxes retrieved from the tabulation machine until ballot boxes are sealed and secured by election officials.

(11) Observe the insertion of ballots being placed into the emergency bin of a tabulation machine by the voter and observe the subsequent scanning of those ballots by a bipartisan team of judges.

(12) Observe emergency actions, fault isolation, repairs, and replacement of tabulation or other election machines when they malfunction in the voting enclosure.



(13) Photograph or video record any signage set up within the voting enclosure as long as no voters or poll workers are in the image or video recording.

(14) Use electronic devices to take notes and communicate, but the observer shall not make or receive phone calls while inside the voting enclosure during voting hours.

(15) Speak with election officials other than the chief judge or site supervisor to resolve questions when the chief judge or site supervisor is not immediately accessible.

(16) Make audio recordings of discussions between the observer and chief judges, judges, and poll worker(s) at the voting location.

(17) Inspect and image or video record the exterior of a tabulation machine at any time during the voting hours when no voter is using or waiting to use the tabulation machine.

(18) Enter and exit the voting enclosure using any entry door available to poll workers, site supervisors, chief judges, or judges.

(19) Observe the possession and transport of ballot boxes, poll tapes and memory devices to ensure chain of custody from the voting location to their final destination upon closure of the polls without impeding or interfering with the transport of those materials.

(e) Election Observers shall not interfere with the voting process by:

(1) Wearing or distributing campaign material or electioneering.

(2) Speaking with voters.

(3) Positioning themselves to view confidential voter information on poll books or poll worker computers.

(4) Positioning themselves close enough to a voter to view that voter's ballot markings any time during the voting process.

(5) Taking photographs or videos of a voter without the consent of the voter and a chief judge or site supervisor, while inside the voting enclosure.

(6) Entering the voting booth area or attempting to view a ballot being marked by a voter in the voting booth area.

(7) Positioning themselves less than five (5) feet from a vehicle compartment containing curbside voters.

(8) Providing voting assistance to, impeding, or communicating with any voter inside the voting enclosure.

(f) Election observers may be removed if an observer's behavior violates the rules for behavior in the voting enclosure. The chief judge or site supervisor may remove the observer, subject to the following procedure:

(1) The observer shall only be removed for specified violations of this section.

(2) The chief judge or site supervisor must first issue a verbal or written warning to the observer, stating the time and nature of the disruptive behavior, then allow the observer reasonable opportunity to conform to the rules.

(3) Any removal shall be under the authority of the chief judge or site supervisor.

(4) The chief judge or site supervisor must issue a written report, stating the time and nature of the rules violation.

(5) The chief judge or site supervisor shall, within 30 minutes after the removal, notify the Director of the county Board of Elections, who, in turn, will notify observer's appointing political party or campaign committee chair.



(6) The appointing political party or campaign committee chair shall be afforded the opportunity to replace the removed observer immediately with another observer at the voting location upon written or electronic notification of the Director.

(7) Citizens shall not be prohibited from serving as poll observers without a hearing and due process.

~~(g)(d)~~ Whether or not the observer attends to the polls for the requisite time provided by this section, each observer shall be entitled to obtain ~~at times specified by the State Board of Elections, but~~ not less than three times during each day of the election day, with the spacing not less than ~~one~~ three hours apart, a list of the persons who have already voted ~~in the~~ at that voting location precinct during that day of the election ~~day~~. Counties that use an "authorization to vote document" (ATV) instead of poll books may comply with the requirement ~~in the previous sentence~~ by permitting each observer to inspect ~~election records~~ the ATVs so that the observer may create a list of persons who have voted ~~in the precinct so far that~~ during that day of the election election day; ~~each observer shall be entitled to make the inspection as the observer deems necessary at times specified by the State Board of Elections, but~~ not less than three times during each ~~election~~ day with the spacing not less than ~~one~~ three hours apart.

(h) Instead of having an observer receive the voting list, the county party chair may send a runner to do so, even if an observer has not been appointed for that precinct. The runner may be the ~~precinct~~ party chair for that precinct or any person named by the county party chair. Each county party chair using runners in an election shall provide to the Director of the county board of elections before 10:00 A.M. on the fifth day before the applicable day of the election day(s) with a list of the runners to be used ~~each~~ day of the election. That party chair must notify the Director of the county board of elections ~~chair of the county board of elections or the board chair's designee~~ of the names of all runners to be used in each precinct at each voting location, ~~before the runner goes to the precinct~~. The runners at each voting location may receive a digital voter list from the ~~precinct voting location~~ if such a list is available. Whether obtained by observer or runner, each party is entitled to only one voter list at each of the authorized scheduled pick-up times. No runner may enter the voting enclosure except when ~~necessary~~ authorized to announce ~~that~~ the runner's presence and to receive the voted list. The runner must leave immediately after being provided with the list.

(i) Violation. – Any election official who restricts or denies observer access beyond what is allowed under this statute or under 18 US Code 245 is guilty of a Class 1 misdemeanor.

§ 163-165. Definitions.

In addition to the definitions stated below, the definitions set forth in Article 15A of this Chapter also apply to this Part. As used in this Part:

...

(9) "Voting enclosure" means the room-area within the voting place location that is used for to complete the voting process. It includes any vehicle compartment containing one or more voters parked in the designated curbside voting area.

§ 163-166.2. Arrangement of the voting enclosure.

Each voting enclosure shall contain at a minimum:

- (1) A sufficient number of private spaces for all voters to mark their official ballots in secrecy.



- (2) Adequate space and furniture for the separate functions of:
 - a. The checking of voter registration records.
 - b. The distribution of official ballots.
 - c. Private discussion with voters concerning irregular situations.
- (3) A telephone or some facility for communication with the county board of elections.
- (4) Three chairs for each political party's observers to use.

The equipment and furniture in the voting enclosure shall be arranged so that it can be generally seen from the public space of the enclosure.